

JOURNAL
OF THE
House of Representatives
OF THE
STATE OF ALABAMA
REGULAR SESSION
OF 1994

HELD IN THE CITY OF MONTGOMERY, ALABAMA
COMMENCING TUESDAY, JANUARY 11, 1994



Vol. 4
WITH AN INDEX PREPARED BY THE
CLERK OF THE HOUSE

EBSCO Printing Company
Printers—Binders
Birmingham, Alabama

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HOUSE OF REPRESENTATIVES
OF THE
STATE OF ALABAMA
REGULAR SESSION
OF 1994**

TWENTY-SEVENTH DAY

**House of Representatives
Montgomery, Alabama
Thursday, April 14, 1994**

The House met pursuant to adjournment.

PRAYER

The session was opened with prayer by Dr. F. N. Nixon, Elam Baptist Church, York, Alabama.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Hunter Letchman, 12th Grade, Mountain Brook High School, Birmingham, Alabama.

ROLL CALL

On a call of the roll of the House, the following members answered to their names:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

A quorum was present.

REPORT OF STANDING COMMITTEE ON RULES

House of Representatives:

Your Standing Committee on Rules begs leave to report that it has carefully examined the Journal of the House for the twenty-sixth legislative day and finds the same to be correct.

TOMMY CARTER
Chairman

On motion of Representative Ford, the reading at length of the Journal of the House for the twenty-sixth legislative day was dispensed with, the Report of the Standing Committee on Rules was concurred in and adopted and the Journal for the twenty-sixth legislative day was approved.

Yeas 68; Nays 16.

Yea:

Mr. Speaker, Beasley, Biddle, Black (L), Black (M), Bowling, Box, Bryant, Burke, Butler, Campbell, Carns, Carothers, Carter, Clark (W), Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Gullatt, Hall (A), Hall (L), Hammett, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Hooper, Johnson, Knight (A), Kvalheim, Layson, McDowell, McKee, Melton, Morrow, Newton (C), Newton (D), Parker (P), Petelos, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R), Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

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Nay:

Representatives Anderson, Blakeney, Cagle, Drake, Hamilton, Haney, Hilliard, Laird, Mathis, McMillan, Mikell, Page, Parker (T), Payne, Perdue and Spratt.

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LEAVE OF ABSENCE

At the request of Representative McDaniel, leave of absence was granted for Representative Richardson.

RESOLUTION

The following resolution was introduced and distributed according to Joint Rule 11:

By Representative Clark (J):

H.R. 428. RECOGNIZING THE ROTARY INTERNATIONAL GROUP STUDY EXCHANGE, APRIL 14-18, IN EUFAULA, ALABAMA.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has acceded to the request of the House for a Committee on Conference on the disagreement of the two Houses on the Senate amendment to the House Bill:

H. 272. To amend Section 40-12-248 of the Code of Alabama 1975, relating to the annual license taxes and registration fees for trucks or truck tractors; define the word "farmer"; to further provide for the lower annual license tax and registration fee for certain trucks or truck tractors owned and used by a farmer.

And the President Pro Tempore and Presiding Officer of the Senate has appointed as Committee on part of the Senate, Senators: Foshee, Waggoner, and Campbell.

McDOWELL LEE
Secretary

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 223. To make an appropriation from the Alabama Special Educational Trust Fund to Constitution Hall Village at Huntsville, Alabama, for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 195. To make an appropriation to the Department of Education for the fiscal year ending September 30, 1995.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 387. To amend Section 30-3-62, Code of Alabama 1975, relating to income withholding orders for support, to provide procedures by which income withholding orders may be terminated under certain circumstances without a hearing upon filing of an affidavit by the obligor, notice to the obligee, and issuance of an order.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

LEAVE OF ABSENCE

At the request of Representative Buskey, leave of absence was granted for Representative Kennedy.

REPORT OF STANDING COMMITTEE ON RULES

Representative Carter, Chairman of the Standing Committee on Rules, reported that said Committee, in session, had acted on the following resolution and ordered same returned to the House with a favorable report:

H.R. 396. URGING THE UNITED STATES CONGRESS TO CEASE APPROPRIATING FUNDS FOR ANY MILITARY ACTIVITY NOT AUTHORIZED BY CONGRESS.

On motion of Representative Carter, the resolution, H.R. 396, was adopted.

REPORT OF STANDING COMMITTEE ON RULES

Representative Carter, Chairman of the Standing Committee on Rules, reported that said Committee, in session, had acted on the following resolution and ordered same returned to the House with a favorable report:

H.J.R. 425. RECOGNIZING THE UNVEILING OF AN HISTORICAL MARKER BY THE CITY OF HUNTSVILLE.

On motion of Representative Carter, the resolution, H.J.R. 425, was adopted.

REPORT OF STANDING COMMITTEE ON RULES

Representative Carter, Chairman of the Standing Committee on Rules, reported that said Committee, in session, had acted on the following resolution and ordered same returned to the House with a favorable report:

H.J.R. 426. COMMENDING BOBBY HAYDEN OF HUNTSVILLE, ALABAMA.

On motion of Representative Carter, the resolution, H.J.R. 426, was adopted.

REPORT OF STANDING COMMITTEE ON RULES

Representative Carter, Chairman of the Standing Committee on Rules, reported that said Committee, in session, had acted on the following resolution and ordered same returned to the House with a favorable report:

H.J.R. 421. MOURNING THE DEATH OF MR. DANIEL BERSON OF MOBILE, ALABAMA.

On motion of Representative Carter, the resolution, H.J.R. 421, was adopted.

REPORT OF STANDING COMMITTEE ON RULES

Representative Carter, Chairman of the Standing Committee on Rules, reported that said Committee, in session, had acted on the following resolution and ordered same returned to the House with a favorable report:

S.J.R. 134. COMMENDING THE ROBERT C. HATCH HIGH SCHOOL BOBCATS ON THEIR STATE 3-A HIGH SCHOOL BASKETBALL CHAMPIONSHIP 1993-94 TITLE.

On motion of Representative Carter, the resolution, S.J.R. 134, was adopted.

REPORT OF STANDING COMMITTEE ON RULES

Representative Carter, Chairman of the Standing Committee on Rules, reported that said Committee, in session, had acted on the following resolution and ordered same returned to the House with a favorable report:

S.J.R. 138. COMMENDING TURNER INSCOE ON HIS ELECTION AS 1995 GOVERNOR OF THE ALABAMA YOUTH LEGISLATURE.

On motion of Representative Carter, the resolution, S.J.R. 138, was adopted.

BILLS ON SECOND READING

Representative Harper, Chairperson of the Standing Committee on Ways and Means, reported that said Committee in session had acted on the following bill and ordered same returned to the House with a favorable report, and it was read a second time and placed on the Calendar, to-wit:

S. 209. To make an appropriation for the payment of interest due the federal government as computed in accordance with the provisions of the Cash Management Improvement Act of 1990, Public Law 101-453 and authorize the director of finance to provide the necessary administration to ensure full compliance with all the provisions of Public Law 101-453.

Representative Harper, Chairperson of the Standing Committee on Ways and Means, reported that said Committee in session had acted on the following bill and ordered same returned to the House with a favorable report, with substitute and amendments, and it was read a second time and placed on the Calendar, to-wit:

S. 318. (With Substitute) (With Amendments): To allow Wallace State Community College at Hanceville, Alabama, and other two-year colleges under the State Board of Education to merge with four-year public colleges and universities under certain conditions; and to provide that other colleges and universities may merge with the approval of their respective boards of trustees.

Representative Harper, Chairperson of the Standing Committee on Ways and Means, reported that said Committee in session had acted on the following bills and ordered same returned to the House with a favorable report, and they were severally read a second time and placed on the Calendar, to-wit:

S. 354. To amend Section 11-99-6, Code of Alabama 1975, as amended, to authorize the pledge of the increase in other revenue and fees, in addition to property taxes, resulting from development in a tax increment district.

S. 430. To make a supplemental appropriation from the State General Fund in the State Treasury to the Alabama Ethics Commission for the fiscal year ending September 30, 1994.

S. 499. To create new circuit judgeships in certain judicial circuits and new district judgeships in certain counties.

S. 526. Relating to Madison County; creating and establishing a public agency in the City of Huntsville and Madison County to act as a clearinghouse for all activities that promote individual responsibility among youth and prohibit prospective antisocial behavior by youth.

S. 554. To amend Section 17-10-11, Code of Alabama 1975, to provide for appointment of election workers in sufficient numbers as necessary to process and canvas absentee ballots using optical scanning devices.

S. 569. To amend Section 12-17-274, Code of Alabama 1975, to provide further for the compensation of official court reporters.

S. 610. To make a supplemental appropriation to the Department of Public Health from the ALERT Fund in the amount of \$500,000 for the fiscal year ending September 30, 1994.

S. 634. Reopening the Employees' Retirement System to allow certain active and vested members of the system to purchase certain credit in the system for service rendered to the State Economic Opportunity Office.

S. 637. To amend Sections 16-1-18, 16-8-25, 16-12-21, and 21-1-21, Code of Alabama 1975, to permit the accumulation of certain additional days of sick leave by certain employees in public education, and permit the transfer of sick leave days from one employer to another.

Representative Higginbotham, Chairperson of the Standing Committee on Judiciary, reported that said Committee in session had acted on the following bills and ordered same returned to the House with a favorable report, and they were severally read a second time and placed on the Calendar, to-wit:

S. 650. Relating to crime victims' rights; to establish and implement certain rights of victims of crime; and to establish certain procedures for enforcing those rights throughout the criminal justice process.

S. 658. To clarify the right of an attorney in fact or agent to make a gift under a power of attorney.

S. 406. To revise the current child labor laws relating to employment and the safety, health, and welfare of minor persons in the workplace; to repeal conflicting laws, specifically Sections 25-8-1 to 25-8-25, inclusive, and Sections 25-8-27, 25-8-28, 25-8-30, and 25-8-31, Code of Alabama 1975, and to retain certain misdemeanor criminal penalties for violations.

Representative Thomas, Chairperson of the Standing Committee on State Administration, reported that said Committee in session had acted on the following bills and ordered same returned to the House with a favorable report, and they were severally read a second time and placed on the Calendar, to-wit:

S. 135. To amend Section 11-3-4.1 of the Code of Alabama 1975, relating to the compensation of the members and chair of the several county commissions, so as further provide for the minimum compensation.

S. 478. Relating to the compensation of the sheriff, chair of the county commission who serves full time, and the judge of probate of the several counties; to amend Section 36-22-16, Code of Alabama 1975, which relates to the minimum compensation to be paid to sheriffs so as to provide for an increase in that compensation.

Representative Zoghby, Chairperson of the Standing Committee on Banking, reported that said Committee in session had acted on the following bill and ordered same returned to the House with a favorable report, with substitute, and it was read a second time and placed on the Calendar, to-wit:

S. 439. (With Substitute): To provide for an alternative late charge in an amount not exceeding the greater of \$2 or five percent of the scheduled payment, which may be charged and collected in connection with a consumer loan, a consumer credit sale, or a consumer credit lease when the scheduled payment is delinquent or in default more than five days.

Representative Zoghby, Chairperson of the Standing Committee on Banking, reported that said Committee in session had acted on the following bills and ordered same returned to the House with a favorable report, and they were severally read a second time and placed on the Calendar, to-wit:

S. 552. To provide for the regulation of consumer debt collectors, and provide penalties for violations.

S. 562. To amend Section 5-2A-3, Code of Alabama 1975, relating to the appointment of the Superintendent of Banks; and to provide further for the procedure for the setting of the salary of the superintendent and assistant superintendents.

Representative Hooper, Chairperson of the Standing Committee on Commerce, Transportation and Utilities, reported that said Committee in session had acted on the following bills and ordered same returned to the House with a favorable report, and they were severally read a second time and placed on the Calendar, to-wit:

S. 322. To provide for the regulation and licensure of geologists; to provide for the Alabama Board of Licensure for Geologists; to make an appropriation; and to prescribe fines and penalties for violations of this act.

S. 582. Relating to insurance coverage for certain drugs recognized for the treatment of life-threatening illnesses, such as cancer, AIDS, and coronary heart disease.

Representative Bowling, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said Committee in session had acted on the following bills and ordered same returned to the House with a favorable report, and they were severally read a second time and placed on the Calendar, to-wit:

S. 670. To promote the maintenance of Lowndes County's natural beauty by eliminating unsightly and unhealthy litter; to provide that certain identifiable litter constitutes prima facie evidence of littering by the person with whom it can be identified; to grant power and authority to the Lowndes County Health Department to enforce littering laws in Lowndes County; and to prescribe fines for violations.

S. 671. Relating to Lowndes County; providing for the salary of the Sheriff of Lowndes County, payable from the Lowndes County treasury; and repealing of conflicting laws.

S. 673. Relating to Lowndes County; providing for the salary of the Sheriff of Lowndes County, payable from the Lowndes County treasury; and repealing of conflicting laws.

S. 676. Relating to Monroe County; providing for an additional expense allowance and salary for the coroner.

Representative Higginbotham, Chairperson of the Standing Committee on Judiciary, reported that said Committee in session had acted on the following bill and ordered same returned to the House with a favorable report, and it was read a second time and placed on the Calendar, to-wit:

S. 340. To provide for the automatic restoration of voting rights for certain persons who fulfill the conditions of the sentence or conditions required by the state Board of Pardons and Paroles; and to specifically repeal Section 17-3-10 of the Code of Alabama 1975.

Representative Gullatt, Chairperson of the Standing Committee on Local Government, reported that said Committee in session had acted on the following bill and ordered same returned to the House with a favorable report, with substitute, and it was read a second time and placed on the Calendar, to-wit:

S. 629. (With Substitute): To provide that a member of a county commission would be allowed to attend one meeting of the county commission per month without a loss of pay or leave; and that the commissioner's compensation paid by the employer would be reduced by the compensation received for attending the meeting.

Representative Bowling, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said Committee in session had acted on the following bill and ordered same returned to the House with a favorable report, and it was read a second time and placed on the Calendar, to-wit:

S. 674. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Helena in Shelby County.

RESOLUTIONS

The following resolutions were introduced:

By Representative Box:

H.J.R. 429. COMMENDING THE DIRECTOR, CAST, AND CREW OF "BOYS AND GHOULS TOGETHER."

WHEREAS, it is with great pleasure that the Alabama Legislature recognizes and applauds the director, cast, and crew of "Boys and Ghouls Together" on an outstanding production; and

WHEREAS, on April 11-12, 1994, the seniors of Satsuma High School presented a delightfully funny and entertaining version of David Rogers' "Boys and Ghouls Together," a fanciful escape from reality into the world of ghouls and goblins, and other things that go bump in the night; and

WHEREAS, the production was brilliantly directed by Mary Atchison and artistically staged by Mark Clearmon, Josh Moore, Dameon Norris and artist Amanda Napper; giving outstanding performances were talented cast members: Jennifer Terrell, Heather Whigham (selected Best Actress), David McCarty (Best Supporting Actor), Melody Lloyd, Stephanie Hudson, Tommy Thompson (Best Actor), Jeremy Pierson, Stephanie Harris, Brooke Persons, Lee Robbins, Amy Smallwood, Valerie Hare, Ryan Monju, Alex Haupt, Darlena Hollingsworth (Best Supporting Actress), and Elvis Howell, with special appearances by Kevin Kidd; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition and tribute to an outstanding performance, we hereby most highly commend the director, cast, and crew of "Boys and Ghouls Together," each of whom shall be provided a copy of this resolution.

On motion of Representative Box, the rules were suspended and the resolution, H.J.R. 429, was adopted.

Also:

By Representative Hall (L):

H.J.R. 430. DESIGNATING INTERSTATE 565 IN HUNTSVILLE, ALABAMA, "THE WERNER VON BRAUN EXPRESSWAY", AND FURTHER DESIGNATING "THE MARTIN LUTHER KING, JR. MEMORIAL PARKWAY", AND DESIGNATING RIDEOUT ROAD THE "RESEARCH PARK DRIVE."

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That all of Interstate 565 in Huntsville, Alabama, be designated as "The Werner Von Braun Expressway."

BE IT FURTHER RESOLVED, (1) That the Memorial Parkway, shall be designated "The Martin Luther King, Jr. Memorial Parkway."

(2) That the highway currently known as Rideout Road, from the border of Redstone Arsenal to the northern terminus of the road, and continuing along the road as construction extends the road north, northeast, and east, shall be designated "RESEARCH PARK DRIVE."

(3) That the Director of Transportation shall cause appropriate signs to be erected along "The Werner Von Braun Expressway," no less than every three miles apart, facing east and west bound traffic.

RESOLVED FURTHER, That the Director of the Department of Transportation shall cause appropriate signs to be erected, in Huntsville, Alabama, to reflect the designation of the roads as provided in items 1 and 2 of this resolution and that copies of this resolution be sent to the Department of Transportation and the appropriate officials of the City of Huntsville.

MOTION TO SUSPEND RULES LOST

The motion offered by Representative Hall (L) to suspend the rules and adopt the resolution, H.J.R. 430, was lost, lacking a four-fifths vote.

Yeas 11; Nays 3.

Yea:

Representatives Bowling, Buskey, Clay, Dolbare, Freeman, Hall (L), Hilliard, Newton (D), Perdue, Spratt and Thomas.

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Nay:

Representatives Haney, Powell and Sanderford.

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PRESENCE OF A QUORUM ASCERTAINED

The presence of a quorum was questioned, and the Speaker directed the Clerk to ascertain if there was a quorum present.

The Clerk reported that there was a quorum present.

The resolution, H.J.R. 430, was read and referred to the Standing Committee on Rules.

Also:

The following resolution was introduced and distributed according to Joint Rule 11:

By Representatives Mathis, Holley and Warren:

H.R. 431. COMMENDING HAROLD BYRD WISE, GENEVA COUNTY, ON OUTSTANDING PUBLIC SERVICE AND RETIREMENT.

Also:

The following resolutions were introduced:

By Representatives Mathis, Holley, Warren, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holmes, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, White, Williams, Willis and Zoghby:

H.J.R. 432. COMMENDING HAROLD BYRD WISE, GENEVA COUNTY, ON OUTSTANDING PUBLIC SERVICE AND RETIREMENT.

WHEREAS, the Alabama House of Representatives notes that our former colleague, Harold Byrd Wise, distinguished Judge of Probate of Geneva County and dedicated public servant, will retire at the expiration of his current term in January 1995; and

WHEREAS, Judge Wise served as a member of the House of Representatives of the Alabama Legislature from 1970 to 1974 and he served on many important committees, including the House Insurance Committee; he has served as Judge of Probate and Chairman of the Geneva County Commission since 1977 and he served his country honorably in the United States Merchant Marines from 1944 to 1947, reaching the rank of Chief Petty Officer; and

WHEREAS, during his almost twenty-five years of public service Judge Wise has many achievements which have earned him many honors, particularly his participation in founding the Southern Alabama Regional Council on Aging, Area Agency on Aging in 1986, for which he was given the agency's Outstanding Service Award; and

WHEREAS, his care and concern for others are demonstrated by his dedicated community service in many humanitarian activities, including, Executive Board member of the Southeast Alabama Regional Planning and Development Commission, the Human Resource Development Corporation, the Foster Grandparent Program Advisory Board, American Association of Retired Persons, Geneva County Retired Senior Volunteer Program, and Geneva County Association of Service Agencies; he holds office in many of these organizations; and

WHEREAS, Judge Wise is a sterling example of practicing the Golden Rule, serving as a Sunday school teacher for 43 years and as a Deacon in Bethel Baptist Church for 42 years where his devotion has been an inspiration for many; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily commend Judge Harold Byrd Wise for his outstanding public service as Judge of Probate, Chairman of the Geneva County Commission, Legislator, and community leader, and provide a copy of this resolution for him so that he may know of our congratulations on his retirement and best wishes in all future endeavors during his well-earned retirement.

On motion of Representative Mathis, the rules were suspended and the resolution, H.J.R. 432, was adopted.

Also:

By Representatives Fuller, Campbell, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby:

H.R. 433. COMMENDING STATE REPRESENTATIVE TAYLOR F. HARPER OF GRAND BAY, ALABAMA, FOR OUTSTANDING SERVICE AS CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE.

WHEREAS, since 1978, Representative Taylor Harper of Grand Bay, Alabama, has devoted a significant part of his life as a dedicated public servant to the State of Alabama and its citizens as a member of the Alabama House of Representatives; and

WHEREAS, Representative Harper answered his first roll call for the opening of the 1979 Organizational Session after being elected to the Alabama House of Representatives from District 105 in Mobile County; he was subsequently reelected three times and is presently serving his fourth consecutive term from the Grand Bay area; and

WHEREAS, while serving in the Legislature, Representative Harper has been an influential member of numerous state and national legislative committees and organizations including the Tourism, Entertainment, and Sports Committee, the Joint Fiscal Committee, the Legislative Council, the State-Federal Assembly of the National Conference of State Legislatures, the South West Energy Council Executive Board, the State-Federal Assembly Energy Committee, the South West Energy Council Executive Board, the Gulf State Marine Fisheries Commission, and the Joint Interim Study Commission on the Feasibility of Establishing a Civil War-Civil Rights Heritage Center for Alabama; and

27th Day

WHEREAS, since 1987, Representative Harper has served as Chairman of the House Ways and Means Committee which has made nearly 24 billion dollars in total state appropriations for the fiscal years spanning from 1987 to 1995; and

WHEREAS, as Chairman of the Ways and Means Committee, Representative Harper has overseen the passage of four state employee pay raises and bonuses together totaling about a 25 percent increase, and four teacher pay raises together totaling about a 30.5 percent increase; and

WHEREAS, in spite of the numerous demands made on his time by his commitment to public service, Representative Harper found the time to serve in the private sector as President of both the Grand Bay Jaycees and the Alabama Pecan Growers Association, and to raise thousands of dollars for Cerebral Palsy research with the annual charity golf tournament he holds during the spring at Grand Bay; and

WHEREAS, Representative Harper would be the first to acknowledge that his outstanding record of public service would have hardly been worth the effort if it had not been for the patience, understanding, and steadfast support of his lovely wife, Julie, his daughter, Leigh-Taylor, and his son, Scott; and

WHEREAS, Representative Taylor Harper is indeed an exemplary Alabama leader whose impact upon the State of Alabama and at the regional and national levels of legislative affairs has been an inspiration for others to emulate; now therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE LEGISLATURE OF ALABAMA, That in recognition of outstanding professional achievement, leadership, and dedicated service to the Alabama Legislature, to the State of Alabama and its citizens, we hereby most highly commend Taylor F. Harper of Grand Bay, Alabama, a devoted friend, public servant, and dedicated colleague whom we hold in highest esteem, and to whom a copy of this resolution shall be presented.

On motion of Representative Fuller, the rules were suspended and the resolution, H.R. 433, was adopted.

Yeas 83; Nays 0.

Yea:

Mr. Speaker, Anderson, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaston, Gullatt, Hall (A), Hall (L), Hammett, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holley, Holmes, Johnson, Knight (A), Kvalheim, Laird, Letson, Lindsey, Mathis, McClain, McDaniel, McKee, McMillan, Melton, Mikell, Millican, Morrow, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Smith (C), Smith (R), Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Willis and Zoghby.

Also:

By Representatives Dolbare, Biddle and Turner:

H.R. 434. REQUESTING AN OPINION ON THE CONSTITUTIONALITY OF S. 282.

WHEREAS, S. 282 of the 1994 Regular Legislative Session, relating to the definition of livestock was enacted with amendments as Act No. 322, a copy of which is enclosed, with amendments; and

WHEREAS, Sections 45 and 61 of the Constitution of Alabama of 1901, state as follows:

"Sec. 45. Style of laws; division of laws; laws restricted to one subject; amendment or revival of laws by title only.

"The style of the laws of this state shall be: 'Be it enacted by the legislature of Alabama,' which need not be repeated, but the act shall be divided into sections for convenience, according to substance, and the sections designated merely by figures. Each law shall contain but one subject, which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code, digest, or revision of statutes; and no law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only; but so much thereof as is revived, amended, extended, or conferred, shall be re-enacted and published at length.

"Sec. 61. Laws to be passed by bills; restrictions on amendments to bills.

"No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose."; now therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE LEGISLATURE OF ALABAMA, That we hereby request an official opinion from the Attorney General concerning the following questions:

(1) Does Act 322 violate the constitutional prohibition against laws containing more than one subject matter, clearly expressed in the title, as required by Section 45 of the Constitution of Alabama of 1901, as amended?

(2) Does Act 322 violate the constitutional requirement that no bill shall be so altered or amended in its passage as to change its original purpose consistent with Section 61 of the Constitution of Alabama of 1901, as amended?

BE IT FURTHER RESOLVED, That a copy of this resolution and Act No. 322, with amendments, be forwarded to the Attorney General with our request that a response be returned as soon as possible.

On motion of Representative Dolbare, the rules were suspended and the resolution, H.R. 434, was adopted.

27th Day

Also:

By Representatives Burke, Lindsey and McDaniel:

H.J.R. 435. DESIGNATING FORT PAYNE, ALABAMA, AS THE "OFFICIAL SOCK CAPITAL OF THE WORLD."

WHEREAS, it is with a sense of great pride that the Legislature of Alabama notes the important role that the Hosiery Industry has played in the emergence and development of Fort Payne, Alabama; and

WHEREAS, the industry began in Fort Payne in 1907, when the "Big Mill" opened; in 1913, the mill was renamed the W. B. Davis and Sons Hosiery Mill; and

WHEREAS, over the years, the Hosiery Industry has provided a supply of steady jobs to the area, particularly during the Great Depression; over 11 million cushion-sole wool socks were manufactured and used by the military in World War II; and

WHEREAS, today in Fort Payne, there are over 150 sock mills which employ almost 5,000 persons; the average weekly production of socks is an incredible 1,000,000 dozen pairs of socks; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby designate Fort Payne, Alabama, as the "Official Sock Capital of the World" and direct that the appropriate officials of the Alabama Department of Transportation erect signs at the city limits on Interstate 59 and U. S. Highway 11.

On motion of Representative Burke, the rules were suspended and the resolution, H.J.R. 435, was adopted.

Also:

By Representative McClain:

H.R. 436. RECOGNIZING MARS HILL BAPTIST CHURCH IN BRIGHTON, ALABAMA, ON ITS 71ST ANNIVERSARY.

WHEREAS, on April 17, 1994, members, friends, and special guests will assemble to celebrate the 71st Anniversary of Mars Hill Baptist Church in Brighton, Alabama, and give thanks for the many blessings and opportunities for service over the past 71 years; and

WHEREAS, to be reflected upon will be the significant milestones of the first seven decades, and the many members, both past and present, who have served Mars Hill Baptist with Christian love and devotion; and

WHEREAS, also to be remembered in contemplating the past are the many pioneer members in the life of Mars Hill, and the dedicated service and leadership of the late Reverend G. A. Ravizoe, the church's founding pastor, as well as Reverend Frank Scott, the present pastor who continues in dynamic and spirit-filled guidance to lead his flock toward an even brighter church life; now therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE LEGISLATURE OF ALABAMA, That we hereby recognize with highest commendation the 71st Anniversary Observance of Mars Hill Baptist Church, Brighton, Alabama, April 17, 1994, and provide that a copy of this resolution be presented to Pastor Frank Scott on behalf of the entire membership on this momentous occasion.

On motion of Representative McClain, the rules were suspended and the resolution, H.R. 436, was adopted.

Also:

By Representatives Cosby, Thomas and Bryant:

H.J.R. 437. COMMENDING MRS. SADIE MOSS OF SELMA, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pleasure that the Alabama Legislature extends highest commendation and heartiest congratulations to Sadie Moss, counselor for East End and Meadowview Elementary Schools in the Selma City School System, who was recently recognized in Project Self-Esteem, a national contest promoting self-esteem among young students; and

WHEREAS, the contest, sponsored annually by Discovery Toys, Incorporated, and open to teachers across the United States, selects those teachers who develop the most impressive and innovative programs of learning activities designed to teach students to feel good about themselves; and

WHEREAS, Mrs. Moss, who was named as an "Honorable Mention" entrant in the contest, and who believes that self-esteem is essential for individuals to become the best they can be, used Scott the Dot, written by Beverly Fleming, to create an imaginative and thought-provoking lesson in self-esteem; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Mrs. Sadie Moss of Selma, Alabama, for whom a copy of this resolution of sincere regard and esteem shall be provided.

On motion of Representative Cosby, the rules were suspended and the resolution, H.J.R. 437, was adopted.

Also:

By Representatives Knight (A) and Smith (C):

H.J.R. 438. COMMENDING SHAWNA SAULS OF THE UNIVERSITY OF MONTEVALLO FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, University of Montevallo student athlete Shawna Sauls has been chosen by Alabama Sportswriters to receive the prestigious Sington Trophy as Alabama's Collegiate Female Athlete of the Year, in recognition of outstanding contributions to her team's success; and

WHEREAS, Shawna Sauls led the University of Montevallo's women's volleyball team to a national record 12th trip to the NAIA National Volleyball Championship in San Diego, California, in her junior and senior years; and

WHEREAS, previously, she was NAIA District 27 Freshman of the Year, NAIA All-American, and led in numerous game and University records; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and recognize University of Montevallo student athlete Shawna Sauls for her many significant and outstanding accomplishments, and as the recipient of the Sington Trophy as Alabama's Collegiate Female Athlete of the Year.

BE IT FURTHER RESOLVED, That a copy of this resolution be prepared for presentation to Shawna Sauls as a token of the Legislature's high regard for her and her accomplishments.

On motion of Representative Knight (A), the rules were suspended and the resolution, H.J.R. 438, was adopted.

Also:

By Representatives Knight (A) and Smith (C):

H.J.R. 439. COMMENDING SHEENA BOWLING OF THE UNIVERSITY OF MONTEVALLO FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, University of Montevallo student athlete Sheena Bowling has been named to the 1994 Kodak Women's All-America Basketball Team for NAIA Colleges; and

WHEREAS, she is the first Montevallo athlete to be so highly honored, and one of only a few in the entire State of Alabama, thereby bringing great credit to herself, the University of Montevallo, and the State of Alabama; and

WHEREAS, Sheena Bowling has also received NAIA First-Team All-American Honors and has set several University individual records; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That University of Montevallo student athlete Sheena Bowling is hereby most highly commended and recognized for her many significant and outstanding accomplishments, including 1994 Kodak Women's All-American Honors, and her selection to the NAIA All-American First Team.

BE IT FURTHER RESOLVED, That a copy of this resolution be prepared for presentation to Sheena Bowling as a token of the Legislature's high regard for her and her accomplishments.

On motion of Representative Knight (A), the rules were suspended and the resolution, H.J.R. 439, was adopted.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the following House Joint Resolution and returns same herewith to the House:

H.J.R. 407. RELATIVE TO MEETING DAYS

McDOWELL LEE
Secretary

RESOLUTIONS

The following resolutions were introduced:

By Representatives Knight (A) and Smith (C):

H.J.R. 440. COMMENDING JUDITH M. GREEN, COACH OF THE YEAR.

WHEREAS, the Legislature of Alabama is pleased to note that the University of Montevallo Volleyball Coach Judith M. Green has served with the university and students with distinction since 1985, accumulating an eight year record of 308 wins and only 63 losses; and

WHEREAS, during the 1993-94 academic year, Coach Green has received many honors and recognitions, including her 300th win, American Volleyball Coaches Association/Tachikara 1993 Coach of the Year, NAIA District 27 Coach of the Year for the seventh consecutive year, Sington Trophy Award winner, and others too numerous to list, all of which have brought great honor and credit to the University of Montevallo and the State of Alabama; and

WHEREAS, Coach Judy Green's Montevallo teams have participated in NAIA National tournaments and have won NAIA district titles during each of the eight years she has been associated with the University of Montevallo; and

WHEREAS, Coach Judy Green embodies the qualities of leadership, teaching, and dedicated service to her students and the University of Montevallo; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Coach Judith M. Green is most highly commended in recognition of her numerous outstanding professional accomplishments.

FURTHER RESOLVED, That a copy of this resolution be provided for her as a token of our high regard for her, and for her many professional and athletic accomplishments.

On motion of Representative Knight (A), the rules were suspended and the resolution, H.J.R. 440, was adopted.

Also:

By Representative Campbell:

H.R. 441. RELATIVE TO MEETING DAYS

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, That when we adjourn today, Thursday, April 14, 1994, we adjourn to meet again on Monday, April 25, 1994, at 10:00 a.m.

On motion of Representative Campbell, the rules were suspended and the resolution, H.R. 441, was adopted.

HOUSE BILLS INDEFINITELY POSTPONED

On motion of Representative Campbell, all House bills remaining on the Calendar were indefinitely postponed.

RESOLUTION

The following resolution was introduced:

By Representative Poole:

H.J.R. 442. MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO PROPOSE AN AMENDMENT TO ARTICLE V OF THE UNITED STATES CONSTITUTION THAT WILL ENABLE THREE-FOURTHS OF THE STATES TO AMEND THE CONSTITUTION SUBJECT TO CONGRESSIONAL VETO.

WHEREAS, all 33 amendments proposed to the United States Constitution since 1788 have been initiated by Congress; and

WHEREAS, more than 400 petitions from the several states requesting a constitutional convention to propose amendments have been filed with Congress but have never resulted in the calling of a convention or adoption of an amendment; and

WHEREAS, there should be a proper balance of national and state power in a federal system; the present mechanism for the states to initiate a constitutional convention has proved to be unworkable; and the envisioned and desirable equipoise between national and state powers requires a means for the several states to be able to propose amendments to the Constitution; and

WHEREAS, an Intergovernmental Partnership Task Force has proposed in its 1989 report to the Intergovernmental Affairs Committee of the Council of State Governments, an amendment to Article V of the United States Constitution to establish a thoughtful balancing of national and state interests in the constitutional amendment process; and

WHEREAS, the gist of the Task Force proposal is to enable the legislatures of three-fourths of the states to propose amendments to the Constitution subject to the veto of the Congress by a two-thirds vote of both Houses within two years of the states' submission of the amendments; and

WHEREAS, this proposal embodies a prudent method for constitutional amendments to be initiated by a substantial majority of the several states and yet subject to veto by the Congress; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Congress of the United States is requested to propose an amendment to Article V of the Constitution of the United States which in essence provides that:

Whenever three-fourths of the Legislatures of the several states deem it necessary, they shall propose amendments to this Constitution. After two years from the date of receipt by the Clerk of the House of Representatives of a certified copy of the proposed amendments from the state which represents three-fourths or more of the several states, the proposed amendments shall be valid to all intents and purposes as part of this Constitution, unless disapproved by two-thirds of both Houses of Congress within that two-year period. Each state shall have the power to rescind its action to propose the amendments only until the beginning of that two-year period.

BE IT FURTHER RESOLVED, That the Legislature requests the legislatures of the several states to apply to Congress for the proposal of this amendment to the Constitution of the United States.

RESOLVED FURTHER, That copies of this resolution be sent to the President of the Senate and the Speaker of the House of Representatives of the United States, to each of the senators and representatives from Alabama, and to the legislatures of each of the several states, attesting to the adoption of this resolution.

MOTION TO SUSPEND RULES LOST

The motion offered by Representative Poole to suspend the rules and adopt the resolution, H.J.R. 442, was lost, lacking a four-fifths vote.

Yeas 22; Nays 15.

Yea:

Representatives Biddle, Blakeney, Box, Cagle, Cullins, Haney, Hill, Hogan, Holladay, Hooper, Knight (A), Laird, Layson, Letson, McKee, Newton (C), Parker (T), Payne, Rogers (F), Turnham, Warren and Williams.

Nay:

Representatives Anderson, Black (M), Buskey, Clay, Curry, Hall (L), Hawkins, Hilliard, Holmes, Knight (J), McClain, Newton (D), Perdue, Sanderson and Spratt.

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PRESENCE OF A QUORUM ASCERTAINED

The presence of a quorum was questioned, and the Speaker directed the Clerk to ascertain if there was a quorum present.

The Clerk reported that there was a quorum present.

The resolution, H.J.R. 442, was read and referred to the Standing Committee on Rules.

BILLS ON THIRD READING

And the bill:

S. 577. Relating to the Twenty-third Judicial Circuit consisting of Madison County; to amend Section 3 of Act No. 80-485, H. 859, Regular Session 1980 (Acts 1980, p. 755), providing for the parking of jurors, assessment, collection, and use of additional court costs in certain cases to defray the expense of juror parking, so as to further provide for the court costs in civil and domestic relations cases in the circuit court.

was read a third time at length and passed.

Yeas 45; Nays 0.

Yea:

Representatives Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Butler, Carns, Carothers, Collins, Crow, Cullins, Curry, Freeman, Fuller, Gaston, Goodwin, Gullatt, Haney, Harvey, Hill, Holley, Knight (A), Kvalheim, Letson, Lindsey, Mathis, McClain, McDowell, McMillan, Morton, Parker (P), Payne, Penry, Perdue, Rockhold, Rogers (F), Sanderford, Smith (C), Spratt, Turnham, Walker, White and Willis.

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PRESENCE OF A QUORUM ASCERTAINED

The presence of a quorum was questioned, and the Speaker directed the Clerk to ascertain if there was a quorum present.

The Clerk reported that there was a quorum present.

And the bill:

S. 665. Relating to Shelby County, to provide a salary supplement for the judicial assistant to the Presiding Circuit Court Judge and the Presiding District Court Judge and to repeal Act No. 91-463, S. 667, 1991 Regular Session, (Acts 1991, p. 837).

was read a third time at length and passed.

Yeas 44; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Black (L), Black (M), Blakeney, Butler, Cagle, Collins, Crow, Cullins, Curry, Freeman, Fuller, Gaston, Goodwin, Hall (A), Hall (L), Hamilton, Hill, Hogan, Holley, Knight (A), Kvalheim, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McMillan, Morton, Newton (C), Parker (P), Penry, Poole, Rogers (F), Smith (C), Spratt, Turnham, Venable, White and Willis.

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PRESENCE OF A QUORUM ASCERTAINED

The presence of a quorum was questioned, and the Speaker directed the Clerk to ascertain if there was a quorum present.

The Clerk reported that there was a quorum present.

RESOLUTION

The following resolution was introduced:

By Rules Committee:

H.R. 443. BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES; That immediately upon the adoption of this resolution, the following business, in the order set forth below, shall be the special and paramount order of business for the twenty-seventh legislative day, Thursday, April 14, 1994, taking precedence over the regular order of business or any pending or unfinished business:

And the Following Bills:

Inst Id	Page
<u>S. 367</u> - By Foshee	154

Public Service Commission, comp., exp. allow. converted to salary, future recommendation by Personnel Bd. subject to Governor's approval, Sec. 37-1-11 am'd.

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S. 125 - By Horn (As Substituted)

136

Education Technology Fund estab., approp.

S. 328 - By Foshee

145

Bail system, substantially revised, Sec. 15-13-80 am'd.;
Secs. 15-13-61, 15-13-62, 15-13-63, 15-13-81, 15-13-82,
15-13-100 to 15-13-164; Act 93-677, Reg. Sess. 1993, Act
93-901, 1st Sp. Sess. repealed

S. 348 - By Figures

112

Supernumerary judges, qualifications further defined, Sec.
12-17-40 am'd.

S. 431 - By Hale

97

Medical records, costs for reproduction and delivery

S. 329 - By Windom

129

Shrimping industry, regulations re poundage, location of
catches, and licensing, Secs. 9-12-54.1 to 9-12-54.7, 9-12-93
am'd.

S. 414 - By Mitchem

165

Adult Protective Services, estab., mistreatment of adults
prohib., Secs. 38-9-2, 38-9-6 to 38-9-10 am'd.

S. 37 - By Sanders

57

Unpaved roads, max. speed limit, 25 mph, Secs. 32-5A-171,
32-5A-173 am'd.

S. 274 - By Lindsey

152

Circuit clerks and registers, comp.

S. 250 - By Bailey

126

Abortion, parental consent, requiring consent of parent to be
notarized or signed in presence of abortion provider based
on proper id, req. cert. documents be certified, Sec. 26-21-3
am'd.

S. 103 - By Smith (J)

166

Law enforcement officers, subsistence allow. to incl.
corrections employees, Sec. 36-21-2 am'd.

<u>S. 81</u> - By Mitchell	124
Chiropractors Examiners Bd., election of membs., bd. reorganization, quorum, Secs. 34-24-140, 34-24-141, 34-24-144 am'd.	
<u>S. 570</u> - By Lindsey	151
Nurse practioners, auth. to practice medicine and dispense drugs in collaboration with physicians	
<u>S. 246</u> - By Little	77
Foreign Nationals and prisoners, Gov. auth. to extradite to native country	
<u>S. 56</u> - By Owens	64
Insurance Holding Company System Regulatory Act, estab., for compliance with model act adopted by National Association of Insurance Commissioners, Secs. 27-29-1 to 27-29-5 am'd.	
<u>S. 590</u> - By Dial (As Substituted)	160
Employees' Retirement System, bd. of control and investment committee, restructured, Secs. 36-27-23, 36-27-25 am'd.	
<u>S. 115</u> - By Campbell	133
County comms., reg. of subdivisions to incl. mobile home parks, inspectors, fees, penalties, Sec. 11-24-1 am'd.	
<u>S. 202</u> - By Dixon	105
Firearms and cert. weapons, banned from school prop., activities and transportation, penalties	
<u>S. 375</u> - By Little	155
Fraternal Order of Police, distinc. license plates auth. to be issued	
<u>S. 101</u> - By Ghee (As Amended)	81
Voter registration, implementation of "motor-voter" federal act, Secs. 17-4-189, 17-4-211, 17-4-214 am'd.	

S. 334 - By Parsons

154

Teachers' Retirement System, officers and employees of the American Federation of Teachers may participate

S. 263 - By Corbett

75

Foreclosure advertised notices of real prop., req. to incl. street address or nearest location

S. 271 - By Corbett

166

Deeds filed in probate office for recordation, address of grantee required

MOTION TO ADOPT

Representative Ford offered the motion to adopt the resolution, H.R. 443.

MOTION TO TABLE LOST

The motion offered by Representative Perdue to table the motion offered by Representative Ford to adopt the resolution, H.R. 443, was lost.

Yeas 23; Nays 63.

Yea:

Representatives Biddle, Blakeney, Box, Buskey, Carter, Clark (W), Crow, Ford, Fuller, Hall (L), Haney, Holley, Letson, Mikell, Newton (D), Parker (T), Payne, Penry, Perdue, Powell, Sanderford, Walker and Willis.

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Nay:

Mr. Speaker, Anderson, Barnes, Beasley, Black (L), Black (M), Bowling, Bryant, Burke, Butler, Carothers, Clay, Collins, Cullins, Curry, Dolbare, Drake, Flowers, Freeman, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hamilton, Hammett, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holmes, Hooper, Johnson, Knight (A), Kvalheim, Laird, Layson, Lindsey, Mathis, McClain, McDowell, McKee, McMillan, Morrow, Morton, Newton (C), Page, Parker (P), Sanderson, Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White and Williams.

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SUBSTITUTE OFFERED

Representative Payne offered the following substitute to the resolution, H.R. 443:

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES; That immediately upon the adoption of this resolution, the following business, in the order set forth below, shall be the special and paramount order of business for the twenty-seventh legislative day, Thursday, April 14, 1994, taking precedence over the regular order of business or any pending or unfinished business:

And the Following Bills:

Inst Id	Page
<u>S. 367</u> - By Foshee	154
Public Service Commission, comp., exp. allow. converted to salary, future recommendation by Personnel Bd. subject to Governor's approval, Sec. 37-1-11 am'd.	
<u>S. 125</u> - By Horn (As Substituted)	136
Education Technology Fund estab., approp.	
<u>S. 328</u> - By Foshee	145
Bail system, substantially revised, Sec. 15-13-80 am'd.; Secs. 15-13-61, 15-13-62, 15-13-63, 15-13-81, 15-13-82, 15-13-100 to 15-13-164; Act 93-677, Reg. Sess. 1993, Act 93-901, 1st Sp. Sess. repealed	
<u>S. 348</u> - By Figures	112
Supernumerary judges, qualifications further defined, Sec. 12-17-40 am'd.	
<u>S. 431</u> - By Hale	97
Medical records, costs for reproduction and delivery	
<u>S. 329</u> - By Windom	129
Shrimping industry, regulations re poundage, location of catches, and licensing, Secs. 9-12-54.1 to 9-12-54.7, 9-12-93 am'd.	
<u>S. 414</u> - By Mitchem	165
Adult Protective Services, estab., mistreatment of adults prohib., Secs. 38-9-2, 38-9-6 to 38-9-10 am'd.	

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S. 37 - By Sanders 57

Unpaved roads, max. speed limit, 25 mph, Secs. 32-5A-171, 32-5A-173 am'd.

S. 274 - By Lindsey 152

Circuit clerks and registers, comp.

S. 250 - By Bailey 126

Abortion, parental consent, requiring consent of parent to be notarized or signed in presence of abortion provider based on proper id, req. cert. documents be certified, Sec. 26-21-3 am'd.

S. 103 - By Smith (J) 166

Law enforcement officers, subsistence allow. to incl. corrections employees, Sec. 36-21-2 am'd.

S. 81 - By Mitchell 124

Chiropractors Examiners Bd., election of membs., bd. reorganization, quorum, Secs. 34-24-140, 34-24-141, 34-24-144 am'd.

S. 246 - By Little 77

Foreign Nationals and prisoners, Gov. auth. to extradite to native country

S. 56 - By Owens 64

Insurance Holding Company System Regulatory Act, estab., for compliance with model act adopted by National Association of Insurance Commissioners, Secs. 27-29-1 to 27-29-5 am'd.

S. 590 - By Dial (As Substituted) 160

Employees' Retirement System, bd. of control and investment committee, restructured, Secs. 36-27-23, 36-27-25 am'd.

S. 115 - By Campbell 133

County comms., reg. of subdivisions to incl. mobile home parks, inspectors, fees, penalties, Sec. 11-24-1 am'd.

<u>S. 202</u> - By Dixon	105
Firearms and cert. weapons, banned from school prop., activities and transportation, penalties	
<u>S. 375</u> - By Little	155
Fraternal Order of Police, distinc. license plates auth. to be issued	
<u>S. 101</u> - By Ghee (As Amended)	81
Voter registration, implementation of "motor-voter" federal act, Secs. 17-4-189, 17-4-211, 17-4-214 am'd.	
<u>S. 334</u> - By Parsons	154
Teachers' Retirement System, officers and employees of the American Federation of Teachers may participate	
<u>S. 263</u> - By Corbett	75
Foreclosure advertised notices of real prop., req. to incl. street address or nearest location	
<u>S. 271</u> - By Corbett	166
Deeds filed in probate office for recordation, address of grantee required	
<u>S. 570</u> - By Lindsey	
Nurse practioners, auth. to practice medicine and dispense with drugs	

SUBSTITUTE TABLED

On motion of Representative Ford, the substitute offered by Representative Payne to the resolution, H.R. 443, was tabled.

Yeas 46; Nays 36.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Black (M), Bryant, Butler, Campbell, Carothers, Carter, Clay, Cosby, Cullins, Flowers, Ford, Freeman, Gaston, Hall (A), Harvey, Hawkins, Haynes, Hill, Hogan, Holmes, Hooper, Johnson, Knight (A), Knight (J), Kvalheim, Layson, Mathis, McDowell, Morrow, Morton, Newton (C), Parker (P), Petelos, Powell, Sanderson, Smith (R), Spratt, Starkey, Turner, Turnham, Venable and Walker.

Nay:

Representatives Black (L), Blakeney, Bowling, Box, Buskey, Cagle, Clark (W), Crow, Curry, Dolbare, Drake, Fuller, Gullatt, Hall (L), Hamilton, Hammett, Haney, Harper, Higginbotham, Holley, Laird, Letson, McMillan, Mikell, Newton (D), Page, Parker (T), Payne, Penry, Perdue, Poole, Rockhold, Sanderford, Warren, White and Willis.

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RESOLUTION ADOPTED

The question was then on the motion offered by Representative Ford to adopt the resolution, H.R. 443, and the resolution was adopted.

Yeas 66; Nays 17.

Yea:

Mr. Speaker, Barnes, Beasley, Biddle, Black (M), Bryant, Burke, Butler, Cagle, Campbell, Carothers, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hamilton, Hammett, Harper, Harvey, Hawkins, Haynes, Hill, Hogan, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Layson, Lindsey, Mathis, McDowell, McKee, Melton, Morrow, Morton, Newton (C), Page, Parker (P), Parker (T), Petelos, Powell, Rogers (F), Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Venable, Walker, Warren, White and Willis.

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Nay:

Representatives Box, Buskey, Clay, Ford, Hall (L), Higginbotham, Holladay, Holley, Laird, Letson, Mikell, Payne, Perdue, Poole, Rockhold, Sanderford and Williams.

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MOTION TO SUSPEND RULES ADOPTED

On motion of Representative Gullatt, House Rule 53 was suspended in order to permit the Standing Committee on Local Government to meet while the House is in Session.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the House amendment to the following Senate Joint Resolution:

S.J.R. 125. NAMING THE NEW BRIDGE AND THE OLD BRIDGE SPANNING THE TENNESSEE RIVER AT GUNTERVILLE, ALABAMA, "THE VETERANS MEMORIAL BRIDGES."

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the following House Joint Resolutions and returns same herewith to the House:

H.J.R. 386. COMMENDING THE 1993-94 CHATTAHOOCHEE VALLEY COMMUNITY COLLEGE LADY PIRATES ON AN OUTSTANDING BASKETBALL SEASON.

Also:

H.J.R. 390. COMMENDING JOHN ZIMMERMAN, IV, OF HOMEWOOD, ALABAMA, FOR EXTRAORDINARY ACHIEVEMENT AND SPORTSMANSHIP.

Also:

H.J.R. 402. COMMENDING MRS. MATTIE LEE MCINTOSH OF BIRMINGHAM, ALABAMA.

Also:

H.J.R. 406. CONGRATULATING Q. D. ADAMS ON THE OCCASION OF HIS 75TH BIRTHDAY.

Also:

H.J.R. 410. EXPRESSING SYMPATHY AND SUPPORT TO STORM VICTIMS IN NORTHEAST ALABAMA.

Also:

H.J.R. 411. COMMENDING THE MANY AGENCIES AND INDIVIDUALS WHO PROVIDED ASSISTANCE TO THE STORM RAVAGED AREA OF NORTHEAST ALABAMA.

Also:

H.J.R. 421. MOURNING THE DEATH OF MR. DANIEL BERSON OF MOBILE, ALABAMA.

Also:

H.J.R. 425. RECOGNIZING THE UNVEILING OF AN HISTORICAL MARKER BY THE CITY OF HUNTSVILLE.

Also:

H.J.R. 426. COMMENDING BOBBY HAYDEN OF HUNTSVILLE, ALABAMA.

McDOWELL LEE
Secretary

RESOLUTIONS

The following resolutions were introduced and distributed according to Joint Rule 11:

By Representative Butler:

H.R. 444. COMMENDING JANICE DUFF, OUTSTANDING STUDENT AT SPARKMAN HIGH SCHOOL, MADISON, ALABAMA.

Also:

By Representative Butler:

H.R. 445. RECOGNIZING THE HARRIS HOME FOR CHILDREN IN HUNTSVILLE, ALABAMA.

RECESS

On motion of Representative Perdue, the House recessed until 1:15 o'clock p.m.

HOUSE RECONVENED

The hour of 1:15 o'clock p.m. having arrived, the House reconvened. The Speaker called the House to order.

SPECIAL ORDER CALENDAR

The House then proceeded with the consideration of the Special Order Calendar.

And the bill:

S. 367. To amend Section 37-1-11 of the Code of Alabama 1975, relating to compensation of the members of the Public Service Commission so as to further provide for the compensation of the members of the Public Service Commission.

was read a third time at length and lost.

Yeas 25; Nays 41.

Yea:

Mr. Speaker, Anderson, Box, Burke, Buskey, Campbell, Carothers, Clark (W), Clay, Cosby, Drake, Ford, Hammett, Harper, Hawkins, Holley, Knight (J), McClain, Melton, Newton (C), Newton (D), Perdue, Starkey, Venable and Willis.

-25

Nay:

Representatives Beasley, Black (M), Butler, Cagle, Collins, Cullins, Curry, Dolbare, Flowers, Gaines, Gaston, Gullatt, Hall (L), Haney, Harvey, Haynes, Higginbotham, Hill, Hogan, Johnson, Knight (A), Kvalheim, Laird, Layson, Lindsey, Mathis, McKee, Mikell, Morrow, Morton, Parker (P), Petelos, Rockhold, Rogers (F), Sanderson, Smith (C), Smith (R), Turnham, Warren, White and Williams.

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PERMISSION GRANTED

Permission was granted for the Journal to reflect that Representative Fuller abstained from voting on the bill, S. 367, due to a possible conflict of interest.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 749. To propose a constitutional amendment relating to Elmore County authorizing the county governing body to levy a fee for fire protection services and emergency medical care and providing for the distribution of funds from the fees; and to repeal Act No. 92-660, H. 63, 1992 Second Special Session.

Also:

H. 822. Relating to Montgomery County; pertaining to the Retirement System for Employees of Montgomery County; to amend Section 1 of Act No. 724 of the Legislature of Alabama of 1981 to provide a regular retirement for employees who complete 30 years of creditable service; to amend Section 1 of Act No. 469 of the Legislature of Alabama of 1989 and Section 1 of Act No. 392 of the Legislature of Alabama of 1993 to increase employee contributions to five percent of salary; and establish provisions for an employee to be restored to active service from service retirement.

Also:

H. 878. Relating to Blount County: providing for voters to vote at machines with the least voting activity.

Also:

H. 883. Relating to Calhoun County; to provide for the assessment and collection of additional court costs in the district and circuit court of the county; and to provide for the use of the funds for security at the Calhoun County Courthouse.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 897. Relating to the office of the sheriff in Tuscaloosa County; to provide for the position of chief jailer in the unclassified service of the county; to provide for the compensation of the chief jailer; and to authorize the Sheriff of Tuscaloosa County to appoint the chief jailer.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 243. Relating to Jefferson County; to amend Act No. 929, S.676, 1951 Regular Session, as amended, which created a Retirement and Relief System for officers and employees of the City of Birmingham, to provide benefits for surviving spouses of participants of the Supplemental Pension System and to provide for a retroactive effect.

Also:

H. 329. Relating to the City of Birmingham in Jefferson County; to amend Act No. 453, H. 427 of the 1967 Regular Session (Acts 1967, p. 1129), as amended by Act No. 393, H. 1317 of the 1975 Regular Session (Acts 1975, p. 976), as amended, establishing a pension and relief fund for officers and employees of the library board of any city having a population of 300,000 or more according to the 1970 or any subsequent federal census, to authorize the library board employer of the members of the Library Board Employees' Pension and Relief Fund to pay certain employee contributions for certain members of the system.

Also:

H. 907. Relating to Shelby County, to provide a salary supplement for the judicial assistant to the Presiding Circuit Court Judge and the Presiding District Court Judge and to repeal Act No. 91-463, S. 667, 1991 Regular Session, (Acts 1991, p. 837).

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 685. Relating to Jefferson County; to amend Section 18 of Act No. 248, H. 580 of the 1945 Regular Session (Acts 1945, p. 376), as last amended by Act No. 89-467, H. 541 of the 1989 Regular Session (Acts 1989, p. 967), relating to creating and establishing a countywide civil service system; to provide for additional names to be certified for vacancies in the classified service.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Presiding Officer of the Senate having signed the following Senate Bills, your signature thereto is requested:

27th Day

S. 577. Relating to the Twenty-third Judicial Circuit consisting of Madison County; to amend Section 3 of Act No. 80-485, H. 859, Regular Session 1980 (Acts 1980, p. 755), providing for the parking of jurors, assessment, collection, and use of additional court costs in certain cases to defray the expense of juror parking, so as to further provide for the court costs in civil and domestic relations cases in the circuit court.

Also:

S. 665. Relating to Shelby County, to provide a salary supplement for the judicial assistant to the Presiding Circuit Court Judge and the Presiding District Court Judge and to repeal Act No. 91-463, S. 667, 1991 Regular Session, (Acts 1991, p. 837).

McDOWELL LEE
Secretary

SIGNING OF SENATE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Message from the Senate.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Presiding Officer of the Senate having signed the following Senate Joint Resolutions, your signature thereto is requested:

S.J.R. 134. COMMENDING THE ROBERT C. HATCH HIGH SCHOOL BOBCATS ON THEIR STATE 3-A HIGH SCHOOL BASKETBALL CHAMPIONSHIP 1993-94 TITLE.

Also:

S.J.R. 138. COMMENDING TURNER INSCOE ON HIS ELECTION AS 1995 GOVERNOR OF THE ALABAMA YOUTH LEGISLATURE.

McDOWELL LEE
Secretary

SIGNING OF SENATE JOINT RESOLUTIONS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Senate Joint Resolutions, the titles of which are set out in the foregoing Message from the Senate.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Presiding Officer of the Senate having signed the following Senate Joint Resolutions, your signature thereto is requested:

S.J.R. 105. NAMING THE "CALL BEFORE YOU DIG" BILL THE "ROSEMARY ELEBASH CALL BEFORE YOU DIG ACT OF 1994."

Also:

S.J.R. 125. NAMING THE NEW BRIDGE AND THE OLD BRIDGE SPANNING THE TENNESSEE RIVER AT GUNTERSVILLE, ALABAMA, "THE VETERANS MEMORIAL BRIDGES."

Also:

S.J.R. 130. RECOGNIZING THE 50TH ANNIVERSARY OF THE SMOKEY BEAR CAMPAIGN.

Also:

S.J.R. 131. COMMENDING CAPTAIN MARTY STAPLETON OF THE UNITED STATES COAST GUARD FOR EXCEPTIONAL COURAGE AND INITIATIVE.

Also:

S.J.R. 132. COMMENDING CAPTAIN ROGER COOK OF THE UNITED STATES COAST GUARD FOR EXCEPTIONAL COURAGE AND INITIATIVE.

McDOWELL LEE
Secretary

SIGNING OF SENATE JOINT RESOLUTIONS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Senate Joint Resolutions, the titles of which are set out in the foregoing Message from the Senate.

SPECIAL ORDER CALENDAR RESUMED

And the bill:

S. 125. (With Substitute): To create an Education Technology Fund within the State Treasury and to make an appropriation to the Education Technology Fund for six pilot programs to augment the science curriculum for the fiscal year ending September 30, 1994.

27th Day

as amended on the twenty-sixth legislative day was again taken up.

MOTION IN WRITING OFFERED

Representative Hall (A) offered the following Motion in Writing relating to the bill, S. 125, as amended:

I move the previous question.

MOTION IN WRITING ADOPTED

And the Motion in Writing was adopted.

Yeas 41; Nays 17.

Yea:

Representatives Beasley, Burke, Buskey, Campbell, Carothers, Carter, Cosby, Crow, Cullins, Drake, Flowers, Ford, Freeman, Gaston, Hall (A), Hall (L), Haney, Harper, Haynes, Hilliard, Holladay, Holmes, Johnson, Kvalheim, Layson, McMillan, Melton, Morrow, Newton (C), Page, Penry, Poole, Rockhold, Sanderson, Smith (R), Spratt, Turner, Turnham, Warren, White and Willis.

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Nay:

Representatives Barnes, Blakeney, Bryant, Cagle, Carns, Dolbare, Fuller, Hawkins, Hogan, Holley, McClain, McDowell, Parker (T), Powell, Rogers (J), Sanderford and Williams.

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And the bill, S. 125, as amended, was read a third time at length and passed.

Yeas 94; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McMillan, Melton, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Thomas, Turner, Turnham, Venable, Warren, White, Williams and Willis.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 886. Relating to Walker County; amending Section 6 of Act No. 200, H. 120, 1969 Special Session (Acts 1969, p. 263), as amended by Act No. 80-673, H. 1116, 1980 Regular Session (Acts 1980, p. 1351), relating to the county civil service system, to provide for the compensation of the members of the civil service board.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Cagle, the House concurred in and adopted the Senate amendment to the bill, H. 886, said Senate amendment being as follows:

On page 2, Section 1, line 2, after "\$100" insert the word: monthly

Yeas 76; Nays 0.

Yea:

Mr. Speaker, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bryant, Burke, Butler, Cagle, Carter, Clay, Collins, Crow, Cullins, Curry, Ford, Freeman, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Hawkins, Haynes, Hill, Hogan, Holladay, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Layson, Letson, Lindsey, Mathis, McClain, McDowell, McKee, Melton, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderson, Smith (C), Smith (R), Spratt, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams and Willis.

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MOTION TO SUSPEND RULES ADOPTED

On motion of Representative White, the rules were suspended in order to take up out of order the bill, S. 103.

Yeas 87; Nays 0.

Yea:

Representatives Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bryant, Burke, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clay, Collins, Crow, Cullins, Curry, Dolbare, Drake, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hamilton, Hammett, Haney, Harper, Hawkins, Haynes, Hill, Hilliard, Hogan, Holladay, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Millican, Morrow, Morton, Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

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And the bill:

S. 103. To amend Section 36-21-2, Code of Alabama 1975, to provide further for the subsistence allowance of law enforcement officers to include on a graduated basis officers with the Department of Corrections.

was taken up.

AMENDMENT OFFERED

Representative Butler offered the following amendment to the bill, S. 103:

Amend Senate Bill 103 as engrossed on page 2, lines 16 and 17 by deleting the words "with the effective date of this act" and inserting in lieu thereof: "with the fiscal year beginning October 1, 1995".

Further amend the bill on pages 2 and 3 by deleting Section 3 and inserting the following new Section 3:

"Section 3. This act shall become effective October 1, 1995."

AMENDMENT TABLED

On motion of Representative Holmes, the amendment offered by Representative Butler to the bill, S. 103, was tabled.

Yeas 67; Nays 20.

Yea:

Representatives Anderson, Barnes, Biddle, Black (L), Black (M), Bryant, Burke, Buskey, Carns, Carothers, Clay, Crow, Cullins, Curry, Flowers, Freeman, Fuller, Goodwin, Hall (L), Hamilton, Hammett, Harper, Harvey, Hawkins, Hill, Hilliard, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Laird, Layson, Letson, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Morrow, Morton, Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rogers (F), Rogers (J), Smith (C), Spratt, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams and Willis.

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Nay:

Representatives Blakeney, Box, Butler, Cagle, Carter, Dolbare, Ford, Gaines, Gaston, Gullatt, Haney, Hogan, Kvalheim, Lindsey, Millican, Newton (C), Rockhold, Sanderford, Sanderson and Zoghby.

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PERMISSION GRANTED

Permission was granted for the Journal to reflect that Representative Zoghby intended to vote "Yea" on passage of the bill, S. 125.

PERMISSION GRANTED

Permission was granted for the Journal to reflect that Representative Powell's machine was inadvertently voted "Nay" on the motion offered by Representative Hall (L) to suspend the rules and adopt the resolution, H.J.R. 430, and had he been in the Chamber at the time of voting, he would have abstained from voting due to a possible conflict of interest.

MOTION IN WRITING OFFERED

Representative Sanderson offered the following Motion in Writing relating to the bill, S. 103:

I move the previous question.

MOTION IN WRITING ADOPTED

And the Motion in Writing was adopted.

Yeas 45; Nays 19.

Yea:

Representatives Beasley, Biddle, Burke, Buskey, Carothers, Carter, Cullins, Curry, Ford, Freeman, Gaines, Gaston, Hall (A), Hall (L), Harvey, Hawkins, Haynes, Hill, Hilliard, Holladay, Holmes, Hooper, Johnson, Knight (A), Knight (J), Kvalheim, Layson, McClain, McMillan, Melton, Millican, Morton, Newton (C), Parker (P), Parker (T), Payne, Penry, Petelos, Rogers (J), Sanderson, Smith (R), Spratt, Turner, Warren and Williams.

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Nay:

Representatives Blakeney, Box, Bryant, Cagle, Campbell, Carns, Clark (W), Fuller, Gullatt, Higginbotham, Hogan, Holley, McKee, Mikell, Page, Poole, Powell, Rockhold and Thomas.

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**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Joint Resolution, to-wit:

H.J.R. 407. RELATIVE TO MEETING DAYS

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE JOINT RESOLUTION

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the House Joint Resolution, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Joint Resolutions, to-wit:

H.J.R. 421. MOURNING THE DEATH OF MR. DANIEL BERSON OF MOBILE, ALABAMA.

Also:

H.J.R. 406. CONGRATULATING Q. D. ADAMS ON THE OCCASION OF HIS 75TH BIRTHDAY.

Also:

H.J.R. 410. EXPRESSING SYMPATHY AND SUPPORT TO STORM VICTIMS IN NORTHEAST ALABAMA.

Also:

H.J.R. 411. COMMENDING THE MANY AGENCIES AND INDIVIDUALS WHO PROVIDED ASSISTANCE TO THE STORM RAVAGED AREA OF NORTHEAST ALABAMA.

Also:

H.J.R. 425. RECOGNIZING THE UNVEILING OF AN HISTORICAL MARKER BY THE CITY OF HUNTSVILLE.

Also:

H.J.R. 426. COMMENDING BOBBY HAYDEN OF HUNTSVILLE, ALABAMA.

Also:

H.J.R. 390. COMMENDING JOHN ZIMMERMAN, IV, OF HOMEWOOD, ALABAMA, FOR EXTRAORDINARY ACHIEVEMENT AND SPORTSMANSHIP.

Also:

H.J.R. 386. COMMENDING THE 1993-94 CHATTAHOOCHEE VALLEY COMMUNITY COLLEGE LADY PIRATES ON AN OUTSTANDING BASKETBALL SEASON.

Also:

H.J.R. 402. COMMENDING MRS. MATTIE LEE MCINTOSH OF BIRMINGHAM, ALABAMA.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE JOINT RESOLUTIONS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the House Joint Resolutions, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 685. Relating to Jefferson County; to amend Section 18 of Act No. 248, H. 580 of the 1945 Regular Session (Acts 1945, p. 376), as last amended by Act No. 89-467, H. 541 of the 1989 Regular Session (Acts 1989, p. 967), relating to creating and establishing a countywide civil service system; to provide for additional names to be certified for vacancies in the classified service.

Also:

H. 907. Relating to Shelby County, to provide a salary supplement for the judicial assistant to the Presiding Circuit Court Judge and the Presiding District Court Judge and to repeal Act No. 91-463, S. 667, 1991 Regular Session, (Acts 1991, p. 837).

Also:

H. 329. Relating to the City of Birmingham in Jefferson County; to amend Act No. 453, H. 427 of the 1967 Regular Session (Acts 1967, p. 1129), as amended by Act No. 393, H. 1317 of the 1975 Regular Session (Acts 1975, p. 976), as amended, establishing a pension and relief fund for officers and employees of the library board of any city having a population of 300,000 or more according to the 1970 or any subsequent federal census, to authorize the library board employer of the members of the Library Board Employees' Pension and Relief Fund to pay certain employee contributions for certain members of the system.

Also:

H. 243. Relating to Jefferson County; to amend Act No. 929, S.676, 1951 Regular Session, as amended, which created a Retirement and Relief System for officers and employees of the City of Birmingham, to provide benefits for surviving spouses of participants of the Supplemental Pension System and to provide for a retroactive effect.

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Also:

H. 897. Relating to the office of the sheriff in Tuscaloosa County; to provide for the position of chief jailer in the unclassified service of the county; to provide for the compensation of the chief jailer; and to authorize the Sheriff of Tuscaloosa County to appoint the chief jailer.

Also:

H. 822. Relating to Montgomery County; pertaining to the Retirement System for Employees of Montgomery County; to amend Section 1 of Act No. 724 of the Legislature of Alabama of 1981 to provide a regular retirement for employees who complete 30 years of creditable service; to amend Section 1 of Act No. 469 of the Legislature of Alabama of 1989 and Section 1 of Act No. 392 of the Legislature of Alabama of 1993 to increase employee contributions to five percent of salary; and establish provisions for an employee to be restored to active service from service retirement.

Also:

H. 878. Relating to Blount County: providing for voters to vote at machines with the least voting activity.

Also:

H. 883. Relating to Calhoun County; to provide for the assessment and collection of additional court costs in the district and circuit court of the county; and to provide for the use of the funds for security at the Calhoun County Courthouse.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 749. To propose a constitutional amendment relating to Elmore County authorizing the county governing body to levy a fee for fire protection services and emergency medical care and providing for the distribution of funds from the fees; and to repeal Act No. 92-660, H. 63, 1992 Second Special Session.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 886. Relating to Walker County; amending Section 6 of Act No. 200, H. 120, 1969 Special Session (Acts 1969, p. 263), as amended by Act No. 80-673, H. 1116, 1980 Regular Session (Acts 1980, p. 1351), relating to the county civil service system, to provide for the compensation of the members of the civil service board.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

S. 103 RESUMED

And the bill, S. 103, was read a third time at length and passed.

Yeas 97; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carothers, Carter, Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

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MOTION TO RECONSIDER ADOPTED

Having voted on the prevailing side, Representative Butler offered the motion to reconsider the vote by which the bill, S. 367, was lost, and the motion to reconsider was adopted.

Yeas 55; Nays 29.

Yea:

Representatives Anderson, Barnes, Biddle, Black (L), Box, Burke, Butler, Cagle, Campbell, Carothers, Carter, Clark (W), Clay, Collins, Crow, Drake, Ford, Freeman, Gaston, Goodwin, Gullatt, Hall (A), Hammett, Harper, Harvey, Hawkins, Higginbotham, Hill, Hilliard, Hogan, Holley, Holmes, Knight (A), Knight (J), Kvalheim, Letson, McClain, Melton, Mikell, Millican, Morrow, Newton (D), Page, Parker (T), Perdue, Powell, Rockhold, Rogers (F), Rogers (J), Smith (C), Spratt, Starkey, Turner, Venable and Zoghby.

-55

Nay:

Representatives Black (M), Blakeney, Bryant, Carns, Cullins, Curry, Dolbare, Gaines, Haney, Haynes, Holladay, Laird, Layson, McDaniel, McDowell, McKee, McMillan, Morton, Parker (P), Payne, Penry, Petelos, Sanderford, Sanderson, Smith (R), Turnham, Walker, Warren and Williams.

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And the bill, S. 367, was again taken up.

MOTION IN WRITING OFFERED

Representative Harper offered the following Motion in Writing relating to the bill, S. 367:

I move the previous question.

MOTION IN WRITING LOST

And the Motion in Writing was lost.

Yeas 34; Nays 40.

Yea:

Representatives Beasley, Burke, Butler, Carothers, Carter, Crow, Drake, Ford, Gaston, Hall (A), Hammett, Harper, Harvey, Higginbotham, Hill, Hilliard, Holmes, Knight (A), Kvalheim, Mathis, McClain, McDaniell, Melton, Millican, Morrow, Newton (D), Page, Powell, Rockhold, Rogers (J), Spratt, Starkey, Turner and Turnham.

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Nay:

Representatives Barnes, Biddle, Blakeney, Box, Bryant, Carns, Curry, Dolbare, Gaines, Gullatt, Hamilton, Haney, Hawkins, Hogan, Holladay, Holley, Johnson, Knight (J), Laird, Layson, Letson, McDowell, McKee, McMillan, Mikell, Morton, Newton (C), Parker (P), Parker (T), Payne, Penry, Petelos, Poole, Sanderford, Sanderson, Smith (R), Walker, Warren, Williams and Willis.

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AMENDMENT OFFERED

Representative Curry offered the following amendment to the bill, S. 367:

To amend S. 367 on page 2 by striking, in their entirety, lines 17 through 20 and inserting in lieu thereof the following: "shall receive a salary of \$64,300 per year and the Associate Commissioners of the Public Service Commission shall receive a salary of \$63,600 per year, and shall not receive a".

AMENDMENT TABLED

On motion of Representative Harper, the amendment offered by Representative Curry to the bill, S. 367, was tabled.

Yeas 43; Nays 30.

Yea:

Mr. Speaker, Anderson, Beasley, Black (L), Black (M), Bryant, Burke, Buskey, Carothers, Carter, Clay, Cosby, Crow, Drake, Ford, Gaston, Hammett, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Holley, Holmes, Knight (A), Kvalheim, Layson, McClain, Millican, Morrow, Newton (D), Parker (P), Penry, Perdue, Rockhold, Rogers (F), Rogers (J), Spratt, Starkey, Thomas, Turner and Venable.

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Nay:

Representatives Biddle, Blakeney, Cagle, Carns, Collins, Cullins, Curry, Dolbare, Gaines, Hamilton, Haney, Hogan, Holladay, Laird, Mathis, McDaniel, McKee, Morton, Newton (C), Parker (T), Payne, Petelos, Powell, Sanderford, Sanderson, Smith (C), Smith (R), Walker, Warren and Williams.

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MOTION IN WRITING OFFERED

Representative Harper offered the following Motion in Writing relating to the bill, S. 367:

I move the previous question.

MOTION IN WRITING ADOPTED

And the Motion in Writing was adopted.

Yeas 47; Nays 26.

Yea:

Representatives Barnes, Beasley, Burke, Butler, Cagle, Campbell, Carothers, Carter, Collins, Cosby, Crow, Cullins, Drake, Ford, Freeman, Gaston, Gullatt, Hall (A), Hammett, Harper, Harvey, Hawkins, Higginbotham, Hill, Hilliard, Hogan, Holley, Holmes, Johnson, Kvalheim, McDaniel, McDowell, McMillan, Melton, Millican, Morrow, Newton (D), Page, Parker (P), Parker (T), Penry, Powell, Rockhold, Spratt, Starkey, Turner and Zoghby.

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Nay:

Representatives Blakeney, Bryant, Carns, Curry, Dolbare, Gaines, Hamilton, Haney, Holladay, Laird, Layson, Lindsey, McKee, Mikell, Morton, Newton (C), Payne, Petelos, Poole, Sanderford, Sanderson, Smith (C), Smith (R), Walker, Warren and Williams.

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And the bill, S. 367, was again read a third time at length and passed.

Yeas 47; Nays 35.

Yea:

Mr. Speaker, Barnes, Black (L), Bowling, Bryant, Burke, Buskey, Butler, Campbell, Carter, Clay, Cosby, Crow, Drake, Freeman, Gaston, Goodwin, Hall (A), Hammett, Harper, Harvey, Hawkins, Higginbotham, Hill, Hilliard, Holley, Holmes, Knight (A), Knight (J), Kvalheim, McClain, McDaniell, McMillan, Melton, Millican, Morrow, Newton (D), Penry, Perdue, Powell, Rockhold, Rogers (J), Spratt, Starkey, Thomas, Turner and Venable.

-47

Nay:

Representatives Beasley, Black (M), Blakeney, Cagle, Carns, Carothers, Cullins, Curry, Dolbare, Ford, Gaines, Hamilton, Haney, Haynes, Hogan, Holladay, Laird, Layson, Lindsey, Mathis, McKee, Mikell, Morton, Newton (C), Page, Parker (P), Payne, Petelos, Sanderford, Sanderson, Smith (C), Smith (R), Walker, Warren and Williams.

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PERMISSION GRANTED

Permission was granted for the Journal to reflect that Representative Zoghby intended to vote "Yea" on passage of the bill, S. 367.

PERMISSION GRANTED

Permission was granted for the Journal to reflect that Representative Fuller abstained from voting on the bill, S. 367, due to a possible conflict of interest.

MOTION TO SUSPEND RULES ADOPTED

On motion of Representative Drake, the rules were suspended in order to take up out of order the bill, S. 344.

And the bill:

S. 344. To amend Section 40-23-5, Code of Alabama 1975, to provide further for sales and use tax exemptions for certain organizations and to provide for retroactive effect.

was read a third time at length and passed.

Yeas 92; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Cagle, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Powell, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, Williams, Willis and Zoghby.

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RESOLUTIONS

The following resolutions were introduced:

By Representative Box:

H.J.R. 446. COMMENDING THE ADAMS MIDDLE SCHOOL BAND OF SARALAND, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature, in highest commendation, recognizes the Adams Middle School Band of Saraland, Alabama, along with the eighth grade members, for outstanding achievement; and

WHEREAS, the Adams Middle School Band, under the able leadership of Director David Ellis, has achieved outstanding success over the past three years; they have received Straight Superior Ratings - District Band Competition (1991-94); Superior Ratings - Smokey Mountain Music Festival (1991-92, 1992-93); Superior Rated Jazz Ensemble - Smokey Mountain Music Festival (1992-93); and Superior Rated Jazz Ensemble - Loyola University Jazz Festival (1993-94); now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to outstanding achievement, we hereby most highly commend Director David Ellis and the Adams Middle School Band and, most particularly, the 44 members of the eighth grade class who, over the last three years, have so greatly contributed to their success.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided to Director Ellis and to the Principal for appropriate presentation and display at Adams Middle School.

On motion of Representative Box, the rules were suspended and the resolution, H.J.R. 446, was adopted.

Also:

By Representative Freeman:

H.J.R. 447. CREATING A JOINT INTERIM COMMITTEE TO STUDY INSURANCE STATUTES.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That there is created the House Interim Committee to study Insurance Statutes. The committee shall be composed of seven House members appointed by the Speaker of the House of Representatives and seven members of the Senate appointed by the Presiding Officer of the Senate.

The committee meet prior to the 1994 Regular Session to study, analyze, and make recommendations for suggested legislative action on statutes relating to insurance regulation in the state, including but not limited to, the following statutes:

§27-1-1. Short title.

This title constitutes the Alabama Insurance Code. §27-1-2. Definitions.

For the purposes of this title, the following terms shall have the meanings respectively ascribed to them by this section.

(1) INSURANCE. A contract whereby one undertakes to indemnify another or pay or provide a specified amount or benefit upon determinable contingencies.

(2) INSURER. Every person engaged as indemnitor, surety or contractor in the business of entering into contracts of insurance.

(3) PERSON. An individual, insurer, company, association, organization, Lloyd's insurer, society, reciprocal insurer or interinsurance exchange, partnership, syndicate, business trust, corporation and every legal entity.

(4) COMMISSIONER. The commissioner of insurance of this state.

(5) DEPARTMENT. The department of insurance of this state.

(6) DOMESTIC INSURER. One formed under the laws of this state.

(7) FOREIGN INSURER. One formed under the laws of any jurisdiction other than this state. Except where distinguished by context, "foreign" insurers includes also "alien" insurers.

(8) **ALIEN INSURER.** One formed under the laws of any country other than the United States of America, its states, district, territories and commonwealths.

(9) **STATE.** Such term, when used in context signifying a jurisdiction other than the state of Alabama, means any state, district, territory, commonwealth or possession of the United States of America.

(10) **AUTHORIZED INSURER; UNAUTHORIZED INSURER.** An "authorized" insurer is one duly authorized, by a subsisting certificate of authority issued by the commissioner, to transact insurance in this state. An "unauthorized" insurer is one not so authorized.

(11) **TRANSACT.** Such term, with respect to insurance, includes any of the following:

- a. Solicitation and inducement;
- b. Preliminary negotiations;
- c. Effectuation of a contract of insurance; or

d. Transaction of matters subsequent to effectuation of a contract of insurance and arising out of it.

§27-1-3. Applicability of title -- Generally.

No provision of this title shall apply with respect to:

(1) Domestic mutual aid associations, as identified in chapter 30, except as stated in chapter 30; or

(2) Fraternal benefit societies, as identified in chapter 34, except as stated in chapters 34 and 35.

§27-1-4. Same -- Exemptions.

This title shall not apply as to:

(1) Any fraternal or other organization or activity which is exempted from the provisions of chapter 34 under section 27-34-5, except to the extent provided in such section;

(2) Nonprofit corporations for establishment of hospitalization plan under section 10-4-100 et seq., except to the extent now or hereafter provided in such laws;

(3) The insurance department of a brotherhood or labor union, the members of which are subject to the act of congress known as the Railway Labor Act; or

(4) The establishment, maintenance, administration and operation of any trust established pursuant to section 22-21-240 by agreement of any hospitals, other health care units or dental practitioners licensed as such by the state of Alabama.

§27-1-5. Compliance requirement.

No person shall transact a business of insurance in Alabama, or relative to a subject resident, located or to be performed in Alabama, without complying with the applicable provisions of this title.

§27-1-6. Prevalence of particular over general provisions.

Provisions of this title relative to a particular kind of insurance, a particular type of insurer or a particular matter shall prevail over provisions in this title relating to insurance in general, insurers in general or such matters in general.

§27-1-7. Effect of captions or headings.

The scope and meaning of any provision shall not be limited or otherwise affected by the caption or heading of any chapter, section or provision.

§27-1-8. Life insurance companies may invest in notes secured by mortgages or deeds of trust.

(a) Any life insurance company of this state, for the purpose of investing its capital, surplus and other funds, or any part thereof, other than the deposit fund, may invest in notes secured by mortgages or trust deeds on unencumbered real estate located within the United States whose principal amount shall not be more than three fourths of the value of said real estate. For the purposes of this section, real estate shall not be deemed to be encumbered within the meaning of this section by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil or timber rights, rights-of-way, joint driveways, sewer rights, public utility easements, rights in walls, nor by reason of building restrictions or other restrictive covenants nor when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner; provided, that the security created by the mortgage or trust deed on such real estate securing such note is a first lien upon such real estate and that there is no condition or right of reentry or forfeiture under which such lien can be cut off, subordinated or otherwise disturbed.

(b) Nothing contained in this section shall be construed to affect or limit the right heretofore granted to life insurance companies to invest funds in mortgages insured by the federal housing commissioner or his successors or to loans guaranteed or insured by the veterans administration; nor shall anything contained in this section apply to purchase money obligations.

§27-1-9. Life insurance companies may invest in loans guaranteed under Service Men's Readjustment Act.

(a) In addition to all other investments now authorized by law, life insurance companies of this state are hereby authorized to invest in any loan or loans which may be guaranteed in whole or in part under the act of congress known as the Service Men's Readjustment Act of 1944, or any amendments thereto.

(b) Any portion of any such loan which is not either insured by the federal housing commissioner or guaranteed under said Service Men's Readjustment Act shall be subject to the provisions of law now in existence with respect to uninsured mortgage loans.

(c) This section is remedial in its nature and shall be liberally construed.

§27-1-10. Payment for health services of chiropractor; insured to have exclusive right to select practitioner of healing arts.

Any contract or policy of insurance or any plan or agreement for health services providing for reimbursement or payment for health services performed by a medical doctor or physician or upon the certification of a medical doctor, surgeon, osteopath or physician, shall also reimburse or pay for such health services performed by a doctor of chiropractic or upon his certificate; provided, that the health services performed by the doctor of chiropractic are within the scope of his license and he is duly licensed by the state of Alabama.

The insured or such other person entitled to benefits under such contract or policy of insurance or plan or agreement for health services shall have the exclusive right to choose or select any practitioner or member of the healing arts of Alabama to perform such services, notwithstanding any provisions of such contract or policy of insurance or plan or agreement for health services to the contrary.

§27-1-11. Dentists and dental hygienists as "physicians" under health or accident insurance policies.

Whenever the terms "physician" and/or "doctor" are used in any policy of health or accident insurance issued in this state or in any contract for the provision of health care, services or benefits issued by any health, medical or other service corporation existing under, and by virtue of any laws of this state, said terms shall include within their meaning those persons licensed under and in accordance with chapter 9 of Title 34 in respect to any care, services, procedures or benefits covered by said policy of insurance or health care contract which the said persons are licensed to perform, any provisions in any such policy of insurance or health care contract to the contrary notwithstanding. This section shall be applicable to all policies in this state, regardless of date of issue, on October 10, 1975.

§27-1-11.1. Appropriations to certain universities not to be considered in patient care reimbursement.

Any appropriations made by the legislature of Alabama to the University of Alabama in Birmingham and to the University of South Alabama shall be for the unrestricted support of the activities of the said university and therefore insurance companies, whether operated for profit or not for profit, licensed under the laws of the state of Alabama, whether acting on their own behalf or for others, are

prohibited from applying or taking into account in any manner whatsoever, any portion of those appropriations in determining reimbursement for patient care activities.

§27-1-12. Penalty for violation of title.

Each willful violation of this title for which a greater penalty is not provided by another provision of this title or by other applicable laws of this state shall, in addition to any applicable prescribed denial, suspension or revocation of certificate of authority or license, be punishable as a misdemeanor, upon conviction, by a fine of not more than \$1,000.00 or by imprisonment in the county jail, or by sentence to hard labor for the county, for a period not to exceed one year or by both such fine and imprisonment or hard labor in the discretion of the court. Each instance of violation shall be considered a separate offense.

§27-1-13. Existing forms and filings.

Every form of insurance document and every rate or other filing lawfully in use immediately prior to January 1, 1972, may continue to be so used or be effective until the commissioner otherwise prescribes pursuant to this title.

§27-1-14. Preservation of prior rights, obligations, etc.

This title shall not impair or affect any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to January 1, 1972, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully, and to the same extent, as was possible prior to January 1, 1972.

§27-1-16. Standard health insurance claim form; electronic claims form; various claim forms.

(a) (1) The Commissioner of the Department of Insurance shall prescribe a standard health insurance claim form to be used by all hospitals. The forms shall be prescribed in a format which allows for the use of generally accepted diagnosis and treatment coding systems by providers of health care and payors. The standard form shall be accepted and used by all insurers doing business in the State of Alabama and by all state agencies which pay providers of health care for hospital services.

(2) The Commissioner of the Department of Insurance shall also prescribe a format for all health insurance claims transmitted or submitted for payment by electronic or electro-mechanical means. Such a format shall be used by all insurers doing business in the State of Alabama and by all state agencies which pay providers of health care for hospital services.

(b) An advisory committee of five persons, two appointed by the Alabama Hospital Association, two by the Health Insurance Association of America, and one by an Alabama nonprofit corporation which markets health insurance, shall advise the commissioner on an acceptable standard health insurance claim form and an electronic or electro-mechanical claims form no later than 60 days prior to January 1, 1982. If changes in the forms need to be made at any future time, the

Commissioner of the Department of Insurance shall inform the advisory committee and the committee shall make recommendations as to the changes.

(c) All insurers doing business in Alabama and all state agencies shall accept, for services from physicians licensed to practice medicine, the Uniform Health Insurance Claim Form approved by the Council on Medical Service of the American Medical Association. Nothing in this section shall be construed to prohibit an insurer or state agency from accepting any other health insurance claim form for services provided by a physician licensed to practice medicine.

§27-1-17. Limitation period for payment of claims under health and accident insurance policies; payment of interest; right of action for recovery of unpaid benefits.

(a) All persons, firms, corporations or associations issuing health and accident insurance policies within this state shall consider claims made thereunder and, if found to be valid and proper, shall pay such claims within 45 days after the receipt of proof of loss under such policies. Benefits due under the policies and claims are to be considered overdue if not paid within 45 days after the insurer receives reasonable proof of the fact and amount of loss sustained. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof shall be considered overdue if not paid within 45 days after such proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof shall be considered overdue if not paid within 45 days after such proof is received by the insurer. For the purposes of calculating the extent to which any benefits are overdue, payment shall be treated as made on the date a draft or other valid instrument was placed in the United States mail to the last known address of the claimant or beneficiary in a properly addressed, postpaid, envelope, or, if not so posted, on the date of delivery.

(b) If the claim is not denied for valid and proper reasons by the end of said 45 day period, the insurer must pay the insured one and one-half percent per month on the amount of said claim until it is finally settled or adjudicated.

(c) In the event that the insurer fails to pay such benefits when due, the person entitled to such benefits may bring an action to recover them.

§27-1-18. Contract providing for mental health services to entitle insured to reimbursement for outpatient and inpatient services by qualified psychiatrist or psychologist.

(a) Whenever any group, or blanket hospital or medical expense insurance policy or hospital or medical service contract issued for delivery in this state provides for the reimbursement of health or health related services which includes mental health services, and such services are within the lawful scope of practice of a duly qualified psychiatrist or psychologist, the insured or other person entitled to benefits under such policy or contract shall be entitled to reimbursement for outpatient services, and inpatient services if requested by the attending physician, performed by a duly qualified psychiatrist or psychologist notwithstanding any provisions of the policy or contract to the contrary.

(b) For purposes of this section, a duly qualified psychologist means, one who is duly licensed or certified at the doctorate level in the state by the licensing board for psychologists of the state where the service is rendered, has had at least two years post-doctoral, clinical experience in a recognized health setting or has met the standards of the National Register of Health Service Providers in Psychology which require two years post-doctoral, clinical experience.

(c) Nothing in this section shall be construed to mandate or require an insurance company to include mental health services in a policy or contract which does not include such services, nor shall it be construed to expand the scope or nature of benefits provided when mental health services are included in a policy or contract.

(d) This section shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming law and shall apply to policies or contracts covered by the section delivered or issued for delivery in this state on and after such effective date and to group and blanket policies and contracts issued prior to the effective date on the next anniversary or renewal date or the expiration of the applicable collective bargaining agreement, if any, whichever date is the later.

§27-2-1. Department of insurance.

(a) There shall be a department of insurance of the state of Alabama with such subordinate bureaus and divisions as the commissioner determines to be necessary.

(b) The expenses of operating the department shall be paid out of funds appropriated to it by the legislature or otherwise made available for the purpose.

§27-2-2. Commissioner of insurance -- Appointment; term; qualifications.

(a) A commissioner of insurance shall be chief executive officer of the department. The commissioner shall be appointed by the governor. He shall serve for a term concurrent with that of the governor by whom he is appointed, or for the unexpired portion thereof.

(b) The commissioner shall be selected with special reference to his training, experience and capacity. He shall not be a candidate for, nor hold, any other public office of trust nor be a member of any political committee. If he becomes a candidate for public office or becomes a member of a political committee, his office as commissioner shall be immediately vacated.

§27-2-3. Same -- Oath; bond.

Before entering upon the duties of his office the commissioner shall take and subscribe to the oath prescribed by article 16, section 279 of the state Constitution and give bond in favor of the state of Alabama in the penal sum of \$50,000.00. The surety on the bond shall be a corporate surety authorized to transact such business in this state. The form of the bond and surety shall be subject to the governor's approval. The bond and oath shall be filed with the secretary of state.

§27-2-4. Same -- Salary; duty generally.

(a) The commissioner shall receive such annual salary as fixed by the governor in the same manner as the salaries of other appointive department heads. Such salary shall be payable in the same manner as other state employees are paid.

(b) The commissioner shall devote his entire time to the duties of his office.

§27-2-5. Same -- Official seal.

(a) The commissioner shall have an official seal as heretofore provided him by the state of Alabama.

(b) All certificates executed by the commissioner, other than licenses of agents, brokers, solicitors, adjusters and similar licenses, shall bear his seal.

(c) Every such certificate so executed and sealed under the authority conferred upon the commissioner by law may be recorded in the proper recording office in this state in the same manner and with the same effect as a deed regularly acknowledged or proven.

(d) Every certificate and other document or paper executed by the commissioner pursuant to any authority conferred upon him by law and sealed with the seal of his office and all copies or photographic copies of papers certified by him and authenticated by such seal shall, in all cases, be evidenced equally and in like manner as the original thereof and shall have the same force and effect as the original would in any action or proceeding in any court of this state.

(e) The commissioner shall collect such fees and charges for the use of his official seal as are provided for under section 27-4-2.

§27-2-6. Same -- Offices.

(a) The commissioner's offices shall be located at the state capitol. The commissioner may have a service office at Birmingham and in such other cities of this state as he may deem necessary.

(b) The commissioner shall keep his offices open at all reasonable times for the transaction of public business.

§27-2-7. Same -- Powers and duties generally.

The commissioner shall:

(1) Organize, supervise and administer the department of insurance so that it will perform its lawful functions efficiently and effectively;

(2) Enforce the provisions of this title;

(3) Execute the duties imposed upon him by this title;

(4) Have the powers and authority expressly conferred upon him by, or reasonably implied from, the provisions of this title;

(5) Sign and execute in the name of the state, by "the state department of insurance," all contracts or agreements with the federal government or its agencies, other states or political subdivisions thereof, political subdivisions of this state or with private persons;

(6) Conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper to determine whether any person has violated any provision of this title or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations or investigations shall be borne by the state except as otherwise expressly provided;

(7) Invoke any legal, equitable or special remedy for the enforcement of orders or the provisions of this title;

(8) Have such powers and perform such duties as may be granted to or required of the "superintendent of insurance" of this state under laws remaining in force after the effective date of this title; and

(9) Have such additional powers and duties as may be provided by other laws of this state.

§27-2-8. Same -- Delegation of powers, etc.

(a) The commissioner may delegate to any deputy, assistant, examiner or employee of the department the exercise or discharge in the commissioner's name of any power, duty or function, whether ministerial, discretionary or of whatever character, vested by this title in the commissioner.

(b) The commissioner is responsible for the official acts of his deputy, assistant, examiner or employee acting in the commissioner's name and by his authority.

§27-2-9. Same -- Annual report.

As early as consistent with full and accurate preparation, the commissioner shall annually make a report to the governor of his official transactions during the preceding calendar year. He shall include in the report:

(1) A statement of the receipts and expenditures of the department for the preceding year;

(2) An exhibit of the financial condition and business transactions during the preceding year of insurers authorized to transact business in this state, as disclosed by the financial statements of the insurers filed with the commissioner;

(3) Names of insurers whose business was closed during the year, the cause thereof and amount of assets and liabilities as ascertainable;

(4) Names of insurers against whom delinquency or similar proceedings were instituted and a concise statement of the circumstances and results of each such proceeding;

(5) His recommendations as to amendments or supplementation of laws affecting insurance;

(6) His recommendations concerning the condition, operation and functioning of the department; and

(7) Such other pertinent information and matters as he deems to be in the public interest. (Code 1940, T. 28, §72; Acts 1971, No. 407, p. 707, §34.)

§27-2-10. Appointment, etc., of state fire marshal, assistants, etc.; compensation and bond thereof; contracting for professional services.

(a) Subject to the Merit System Act and rules and regulations issued pursuant thereto, the commissioner shall prescribe the qualifications and duties of and appoint, employ, bond and remove a state fire marshal and such other assistants, deputies, actuaries, examiners and other employees as he deems necessary for the efficient performance of his duties under this Code.

(b) The commissioner shall fix the compensation of all such personnel in accordance with the Merit System Act and the pay plan of the state personnel department.

(c) The commissioner may contract for and procure on a basis of fee, and without giving such persons any status in the classified service of the state, such independently contracting actuarial, technical and other similar professional services as he may from time to time require for the discharge of his duties.

(d) Before entering upon the duties of their respective offices, the chief deputy fire marshal, the deputy fire marshal and the chief clerk shall execute to the state of Alabama a bond, to be approved by the governor, in amounts to be fixed by the insurance commissioner, for the faithful performance of their duties.

§27-2-11. Assignment of assistant attorney general.

The attorney general shall assign to the department an assistant attorney general who shall render to the commissioner such legal services as may be required.

§27-2-12. Travel expenses.

In addition to compensation for their services, the commissioner and deputy commissioners shall receive actual expenses for travel on official business in accordance with article 2, chapter 7 of Title 36 of this Code. Assistants and employees of the department shall be paid expenses for travel on official business as may be authorized by the commissioner and incurred by them in the performance of their duties in the same manner and in the same amounts as such expenses are paid to all other state employees.

§27-2-13. Conflicts of interest; additional compensation, etc.

(a) The commissioner or any deputy, examiner, assistant or employee of the commissioner shall not be financially interested, directly or indirectly, in any insurer, insurance agency or insurance transaction except as a policyholder or claimant under a policy; except, that as to such matters wherein a conflict of interests does not exist on the part of any such individual, the commissioner may employ or retain, from time to time, insurance actuaries, accountants or other professional personnel who are independently practicing their professions even though similarly employed or retained by insurers or others.

(b) The commissioner or any deputy, examiner, assistant or employee of the commissioner shall not be given, nor receive, any fee, compensation, loan, gift or other thing of value in addition to the compensation and expense allowance provided by law for any service rendered, or to be rendered, as such commissioner, deputy, assistant, examiner or employee or in connection therewith. This section shall not apply to any person who is holding office or position on date of enactment of this title.

§27-2-14. Records, documents and files -- Custody; inspection; reproduction; destruction.

(a) The commissioner shall keep and preserve in permanent form accurate and complete records of his proceedings, including also a concise statement of the result of such examination of insurers by the commissioner, record and file all bonds and contracts and shall file such records in the department. The commissioner is responsible for the custody and preservation of all records, documents and files of the department.

(b) The records of the commissioner and insurance filings in his office shall be open to public inspection, except as otherwise provided by this title.

(c) The commissioner may photograph, microphotograph or reproduce on film, whereby each page will be reproduced in exact conformity with the original, all financial records, financial statements of domestic insurers, reports of business transacted in this state by foreign insurers, reports of examination of domestic insurers and such other records and documents on file in his office as he may in his discretion select.

(d) To facilitate efficient use of floor space and filing equipment in his offices the commissioner may destroy records and documents as follows:

- (1) General correspondence files over three years old;
- (2) Agent, broker, solicitor, adjuster and similar license files over two years old;
- (3) Insurer certificate of authority files over two years old;

(4) All documents and records which have been photographed or otherwise reproduced as provided in subsection (c) of this section, and such reproduction has been filed and after audit of the commissioner's office has been completed for the period embracing the dates of such documents and records; and

(5) All other records, documents and files not expressly provided for in subdivisions (1) through (4) of this subsection. (Code 1940, T. 28, §72; Acts 1971, No. 407, p. 707, §31.)

§27-2-15. Same – Use as evidence.

(a) Photographs or microphotographs in the form of film or prints of documents and records made under subsection (c) of section 27-2-14 shall have the same force and effect as the originals thereof and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be as admissible in evidence as the originals.

(b) Upon request of any person and payment of the applicable fee, the commissioner shall give a certified copy of any record in his office which is then subject to public inspection.

(c) Copies of original records or documents in his office certified by the commissioner shall be received in evidence in all courts as if they were originals.

(d) If at any time the commissioner or any deputy, assistant, examiner or other employee of the department is required by subpoena duces tecum to produce in any court or proceeding in this state any record of the department or copy thereof for the purpose of offering the same in evidence in such court or proceeding, the commissioner may designate any deputy, assistant or other full-time employee of the department, who is competent for the purpose, to respond to such subpoena with the record or copy thereof so required and in lieu of the individual to whom the subpoena is directed.

§27-2-16. Publication of materials relating to insurance.

(a) The commissioner shall have printed or otherwise published for public distribution:

(1) The insurance laws of this state;

(2) The rules and regulations of the commissioner;

(3) A directory, annually, of all insurers and of all resident insurance agents and brokers authorized or licensed by this state;

(4) A booklet, annually, containing each and every question and the correct answer thereto from which shall be taken the questions to be used in any written examination of applicants for license under chapters 7 and 8 of this title; and

(5) Such other material as he deems relevant and suitable for the more effective administration of the laws relating to insurance.

(b) The commissioner shall fix at a price at not less than cost of printing and distribution, to be paid by persons requesting copies of the insurance laws, booklets containing questions and answers for examination for licenses and such other publications as he deems proper to sell on behalf of the state rather than distribute free of charge; except that the commissioner may furnish, without charge, copies of any such publication to the legislature or to officials and departments of government or political subdivisions of this state or of other states, of the federal government or of foreign countries. The commissioner shall promptly deposit all moneys so received in the state treasury to the credit of the state general fund.

§27-2-17. Rules and regulations.

(a) The commissioner may make reasonable rules and regulations necessary for the effectuation of any provision of this title. No such rule or regulation shall extend, modify or conflict with any law of this state or the reasonable implications thereof.

(b) Any such rule or regulation affecting persons or matters other than the personnel or the internal affairs of the commissioner's office shall be made or amended only after a hearing thereon of which notice was given as required by section 27-2-29. If reasonably possible the commissioner shall set forth the proposed rule, regulation, amendment or summary in or with the notice of hearing.

(c) No such rule or regulation as to which a hearing is required under subsection (b) of this section above shall be effective until after it has been on file as a public record in the commissioner's office and in the office of the secretary of state for at least 10 days.

(d) Upon request and payment of the reasonable cost thereof, if required and fixed by the commissioner, the commissioner shall furnish a copy of any such rule or regulation to any person so requesting.

(e) The willful failure to comply with or willful violation of any material provision of a rule or regulation may be treated by the commissioner in the same manner as the willful failure to comply with or willful violation of any material provision of this title, but such action taken by the commissioner shall not be in the nature of a criminal penalty and shall be limited to suspension or revocation of licenses of agents or insurers doing business in Alabama.

§27-2-18. Orders and notices of commissioner.

(a) Orders and notices of the commissioner shall be effective only when in writing signed by him or by his authority.

(b) Every such order shall state its effective date, and shall concisely state:

(1) Its intent or purpose;

(2) The grounds on which based; and

(3) The provisions of this title pursuant to which action is taken or proposed to be taken; but failure to so designate a particular provision shall not deprive the commissioner of the right to rely thereon.

(c) Except as may be provided in this title respecting particular procedures, an order or notice may be given by delivery to the person to be ordered or notified or by mailing it, postage prepaid, addressed to him at his principal place of business as last of record in the department. Notice so mailed shall be deemed to have been given when deposited in a letter depository of a United States post office.

§27-2-19. Enforcement of insurance code.

The commissioner may institute such actions or other proceedings as may be required for enforcement of any provisions of this title. If the commissioner has reason to believe that any person has violated any provision of this title for which criminal prosecution would be in order, he shall give the information relative thereto to the attorney general or the district attorney having jurisdiction of any such violation. The attorney general shall promptly institute such action or proceeding against such person as the information may require or justify.

§27-2-20. Examinations – Power generally.

(a) If he has reason to believe that any such person has violated or is violating any provision of this title or upon complaint by any resident of this state indicating that any such violation may exist, the commissioner may examine the accounts, records, documents and transactions pertaining to or affecting the insurance affairs of any:

(1) General agent, agent, broker, surplus line broker, solicitor or adjuster;

(2) Person having a contract or power of attorney under which he enjoys in fact the exclusive or dominant right to manage or control an insurer; or

(3) Person engaged in or proposing to be engaged in or assisting in the promotion or formation of a domestic insurer, insurance holding corporation or corporation to finance a domestic insurer or the production of its business.

(b) The commissioner may examine the insurance affairs and transactions of the attorney-in-fact of a reciprocal insurer in the same manner and on the same basis as examination of such an insurer.

(c) When he deems it necessary for determination of the value of such securities or compliance with any provision of this title, the commissioner may, in his discretion, examine the transactions and affairs of any corporation of which a domestic insurer owns shares of stock or other securities under which it has, or effectively participates in, the control of such corporation.

§27-2-21. Same – Affairs, etc., of insurers and surplus line brokers.

(a) For the purpose of determining its financial condition, ability to fulfill its obligations and compliance with the law, the commissioner shall examine the affairs, transactions, accounts, records, and assets of each authorized insurer, and the records of surplus line brokers restricted to those matters under Section 27-10-29, including the attorney-in-fact of a reciprocal insurer insofar as insurer transactions are involved as often as the commissioner deems appropriate but shall, at a minimum, conduct an examination of every insurer licensed in this state not less frequently than once every five years. In scheduling and determining the nature, scope, and frequency of the examinations, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the Examiners' Handbook adopted by the National Association of Insurance Commissioners and in effect when the commissioner exercises discretion under this section.

(b) The commissioner shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.

(c) In lieu of an examination under this article of any foreign or alien insurer licensed in this state or applying for an initial certificate of authority, the commissioner may accept an examination report on the company as prepared by the Department of Insurance for the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, the reports may only be accepted if: (1) the Department of Insurance was at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program, or (2) the examination is performed under the supervision of an accredited Department of Insurance or with the participation of one or more examiners who are employed by an accredited State Department of Insurance and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by the accredited State Department of Insurance.

(d) As far as practical, the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officials of other states in which the insurer transacts business.

§27-2-22. Same – Examiners.

(a) The commissioner may conduct any such examination in person or by examiners regularly employed and commissioned by him in writing for the purpose. No person shall be eligible for designation as an examiner to examine an insurer unless by reason of experience as an accountant, auditor or examiner of financial institutions or other special experience, education or training he is capable of adequately discharging the responsibilities of such an examiner.

(b) At any time, when examiners who are regular officers or employees of the department are not available for the purpose, the commissioner may specially appoint and employ a competent examiner, or examiners, for the purpose of making a particular examination. The special examiner shall be compensated and reimbursed for expenses in the same manner as provided for regular examiners under section 27-2-25, but shall not have any status in the classified service of the state.

§27-2-23. Same – How conducted.

(a) The examination may be conducted by the commissioner or his accredited examiners at the offices wherever located of the person being examined and at such other places as may be required for determination of matters under examination.

(b) Every person being examined, its officers, attorneys, employees, agents and representatives, shall make freely available to the commissioner or his examiners the accounts, records, documents, files, information, assets and matters in his possession or control relating to the subject of the examination.

(c) If the commissioner or examiner finds any account or record of an insurer being examined to be inadequate or inadequately kept or posted for proper examination of the condition and affairs of the examinee, he shall give written notice to such examinee specifying:

(1) The deficiencies to be corrected; and

(2) A reasonable period within which to correct the stated deficiencies.

If the examinee fails to maintain, complete or correct such accounts or records within the period specified, the commissioner may employ experts to reconstruct, rewrite, post or balance such accounts or records in accordance with recognized accounting principles and procedures.

(d) If the commissioner deems it necessary to value any asset involved in such an examination, he may make written request of the person being examined to appoint one or more competent appraisers approved by the commissioner for the purpose of appraising such property. If no such appointment is made within 10 days after such request was delivered to such person, the commissioner may appoint the appraiser or appraisers. Any such appraisal shall be promptly made, and a copy of the report thereof shall be furnished to the commissioner. The reasonable expense of the appraisal shall be borne by the person being examined.

(e) Neither the commissioner nor any examiner shall remove any record, account, document, file or other property of the person being examined from the offices of such person except with the written consent of such person given in advance of such removal or pursuant to an order of court duly obtained.

(f) Any individual who obstructs the commissioner or his examiner in the examination of an insurer shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 27-1-12.

§27-2-24. Same – Report.

(a) The commissioner or his examiner shall make a full and true written report of each examination. The report shall contain only information obtained from examination of the records, accounts, files and documents of, or relative to, the person examined or from testimony of individuals under oath, together with recommendations of the examiner based thereon. The commissioner shall furnish

a copy of the proposed report to the person examined not less than 20 days prior to filing the report in his office. If such person so requests in writing within such 20-day period, the commissioner shall grant a hearing with respect to the report and shall not so file the report until after the hearing and after such modifications have been made therein as the commissioner deems proper.

(b) The report, when so filed, shall be admissible in evidence in any action or proceeding brought by the commissioner against the person examined, or against its officers, employees or agents. The commissioner or his examiners may, at any time, testify and offer other proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished or filed in the department.

(c) The commissioner may withhold from public inspection any examination or investigation report for so long as he deems necessary to protect the person examined from unwarranted injury or to be in the public interest.

(d) After the examination report has been filed, as provided in this section, the commissioner may publish the results of any such examination in one or more newspapers published in this state whenever he deems it to be in the public interest.

§27-2-25. Same – Expenses.

(a) Each person being examined shall pay to the commissioner the travel expense to and from such examination, a living expense allowance at such reasonable rates customary for such examination in which state the examination takes place and established or adopted by the commissioner and the compensation of the examiners making the examination, upon presentation by the commissioner of a detailed account of such allowances and expenses. Such an account may be so presented periodically during the course of the examination or at the termination of the examination, as the commissioner deems proper.

(b) The commissioner shall deposit all funds received under subsection (a) of this section in the state treasury to the credit of a fund to be known as the special examination revolving fund. The expenses incurred by the commissioner and his examiners in the making of examinations under this title, together with the compensation of such examiners, shall be paid from such revolving fund and the amount necessary to make such payments is hereby appropriated from such fund.

**§27-2-26. Witnesses and evidence for examination, investigation or hearing
-- Generally.**

(a) As to the subject of any examination, investigation or hearing being conducted by him, the commissioner may subpoena witnesses and administer oaths or affirmations and examine any individual under oath or take depositions and, by subpoena duces tecum, may require and compel the production of records, books, files, documents and other evidence.

(b) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a circuit court. Witness fees, mileage and the actual expense necessarily incurred in securing attendance of witnesses and their testimony shall be itemized and shall be paid by the person being examined if in the proceedings in which such witness is called such person is found to have been in violation of the law or by the person, if other than the commissioner, at whose request the hearing is held.

(c) Subpoenas of witnesses shall be served in the same manner and at the same cost as if issued by a circuit court. If any individual fails to obey a subpoena issued and served under this section with respect to any matter concerning which he may be lawfully interrogated or required to produce for examination, on application of the commissioner, the circuit court of the county in which is pending the proceeding at which such individual was so required to appear or the circuit court of the county in which such individual resides may issue an order requiring such individual to comply with the subpoena and to testify or produce the evidence subpoenaed. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

(d) Any person willfully testifying falsely under oath as to any matter material to any such examination, investigation or hearing shall, upon conviction thereof, be guilty of perjury and punished accordingly.

§27-2-27. Same -- Compelling testimony or production of documents, etc.; immunity from prosecution.

(a) If any individual asks to be excused from attending or testifying or from producing any books, papers, records, contracts, correspondence or other documents in connection with any examination, hearing or investigation being conducted by the commissioner or his examiner on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture and shall, by the attorney general, be directed to give such testimony or produce such evidence, he must nonetheless comply with such direction; but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he may have so testified or produced evidence, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding; except, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him in such testimony, and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury; nor shall such individual be exempt from the refusal, suspension or revocation of any license, permission or authority conferred, or to be conferred, pursuant to this title.

(b) Any such individual may execute, acknowledge and file in the department a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement, and thereupon, the testimony of such individual or such evidence in relation to such transaction, matter or thing may be received or produced before any judge, court, tribunal, grand jury or otherwise; and, if so received or produced, such individual shall not be entitled to any immunity or privileges on account of any testimony he may so give or evidence so produced.

§27-2-28. Hearings -- Power to hold.

(a) The commissioner may hold hearings for any purpose within the scope of this title deemed by him to be necessary.

(b) The commissioner shall hold a hearing if required by any provision, or upon written demand therefor by a person aggrieved by any act, threatened act or failure of the commissioner to act or by any report, rule, regulation or order of the commissioner, other than an order for the holding of a hearing or an order on hearing or pursuant thereto. Any such demand shall specify the grounds to be relied upon as a basis for the relief to be demanded at the hearing, and unless postponed by mutual consent, the hearing shall be held within 30 days after receipt by the commissioner of demand therefor.

(c) Pending such hearing and decision thereon, the commissioner may suspend or postpone the effective date of his previous action.

(d) This section does not apply as to hearings provided for in chapter 13 of this title.

§27-2-29. Same -- Notice.

(a) Except where a longer period of notice is provided by other provisions of this title relative to particular matters, not less than 10 days in advance the commissioner shall give notice of the time and place of the hearing, stating the matters to be considered thereat. If the persons to be given notice are not specified in the provision pursuant to which the hearing is held, the commissioner shall give such notice to all persons whose pecuniary interests are to be directly and immediately affected by such hearing.

(b) If any such hearing is to be held for consideration of rules and regulations of the commissioner or for the consideration of other matters which under subsection (a) of this section would otherwise require separate notices to more than 50 persons, in lieu of the notice required under such subsection the commissioner may give notice of the hearing by publication thereof in two or more newspapers of general circulation in this state at least once each week during the four weeks immediately preceding the week in which the hearing is to be held. The published notice shall state the time and place of the hearing and shall specify the matters to be considered thereat.

(c) All such notices, other than published notices, shall be given as provided in section 27-2-18.

(d) This section does not apply as to hearings provided for in chapter 13 of this title.

§27-2-30. Same -- How conducted.

(a) A hearing may be held in the department at Montgomery, Alabama, or at any other place in this state more convenient to parties and witnesses, as the commissioner determines. The commissioner or his deputy or examiner shall preside at the hearing and shall expedite the hearing and all procedures involved therein.

(b) Hearings may be closed to the public at the commissioner's discretion; except that a hearing shall be open to the public if so requested in writing by any party to the hearing.

(c) The commissioner shall allow any party to the hearing to appear in person and by counsel to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary and other evidence, to examine and cross-examine witnesses, to present evidence in support of his interest and to have subpoenas issued by the commissioner to compel attendance of witnesses and production of evidence in his behalf. The testimony may be taken orally or by deposition, and any party shall have such right of introducing evidence by deposition as may obtain in the circuit courts.

(d) Upon good cause shown, the commissioner shall permit to become a party to the hearing by intervention, if timely, only such persons who were not original parties thereto and whose pecuniary interests are to be directly and immediately affected by the commissioner's order made upon the hearing.

(e) Formal rules of pleading or evidence need not be observed at any hearing.

(f) Upon written request seasonably made by a party to the hearing and at such person's expense, the commissioner shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed, a copy of such stenographic record shall be furnished to the commissioner without cost to the commissioner or the state and shall be a part of the commissioner's record of the hearing. If so transcribed, a copy of such stenographic record shall be furnished to any other party to such hearing at the request and expense of such other party. If no stenographic record is made or transcribed, the commissioner shall prepare an adequate record of the evidence and of the proceedings.

(g) Upon written request setting forth the reasons therefor of a party to a hearing filed with the commissioner within 30 days after any order made pursuant to a hearing has been mailed or delivered to the persons entitled to receive the same, the commissioner may, in his discretion, grant a rehearing or reargument of any matter involved in such hearing. Notice of such rehearing or reargument shall be given as provided in section 27-2-29.

(h) This section does not apply as to hearings provided for in chapter 13 of this title.

§27-2-31. Same -- Order.

(a) In the conduct of hearings under this title and making his order thereon, the commissioner shall act in a quasi-judicial capacity.

(b) Within 30 days after termination of the hearing, or of any rehearing thereof or reargument thereon, or within such other period as may be specified in this title as to particular proceedings, the commissioner shall make his order on hearing, covering matters involved in such hearing and in any such rehearing or reargument, and shall give a copy of such order to the same persons given notice of the hearing and to all parties to the hearing.

(c) The order shall contain a concise statement of the facts as found by the commissioner, his conclusions therefrom and the matters required by section 27-2-18.

(d) The order may affirm, modify or rescind action theretofore taken or may constitute the taking of new action within the scope of the notice of hearing.

(e) This section does not apply as to hearings provided for in chapter 13 of this title.

§27-2-32. Same – Appeals.

(a) An appeal from the commissioner shall be taken only from an order on hearing, or as to a matter on which the commissioner has refused or failed to hold a hearing after demand therefor under section 27-2-28 or as to a matter as to which the commissioner has refused or failed to make his order on hearing as required by section 27-2-31. Any person who was a party to such hearing or whose pecuniary interests are directly and immediately affected by any such refusal or failure to grant or hold a hearing and who is aggrieved by such order, refusal or failure may appeal from such order or as to any such matter within 30 days after:

(1) The order on hearing has been mailed or delivered to the persons entitled to receive the same;

(2) The commissioner's order denying rehearing or reargument has been so mailed or delivered;

(3) The commissioner has refused or failed to make his order on hearing as required under section 27-2-31; or

(4) The commissioner has refused or failed to grant or hold a hearing as required under section 27-2-28.

(b) The appeal shall be granted as a matter of right, and shall be taken to the circuit court of Montgomery county, Alabama, or in the case of denial, suspension or revocation of a license as agent, broker, solicitor, adjuster and other licensed insurance representatives, the appeal may at the appellant's option be taken to the circuit court of the county in Alabama of the appellant's residence or principal place of business. The appeal shall be taken by filing notice of appeal or on writ of certiorari by filing petition therefor with the register or clerk of the court, together with a bond, with good and sufficient sureties to be approved by such register or clerk, conditioned to pay all costs which may be assessed against the appellant or petitioner in such proceedings and by service upon or delivery to the commissioner of a copy of such notice or petition.

(c) Upon receiving the notice of appeal or petition for review, the commissioner shall prepare, or cause to be prepared, an official record certified by him which shall contain a copy of all proceedings, findings and orders of the commissioner and any transcript of testimony and exhibits or record thereof made as provided in subsection (f) of section 27-2-30. Within 30 days after the notice of appeal or petition was filed, the commissioner shall file such official record with the court in which the appeal is pending.

(d) Upon filing of the notice of appeal or petition for review, the court shall have full jurisdiction of the proceeding and shall determine, and may so determine *ex parte*, whether such filing shall stay the enforcement of the commissioner's decision or order appealed from.

(e) In hearing the appeal by the circuit court and by the court of civil appeals of Alabama on appeal to it as provided in subsection (g) of this section, the commissioner's decision or order shall be taken as *prima facie* just and reasonable. No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this title and affecting the decision or order appealed from, but the court shall otherwise hear the case upon the certified record. The court shall reverse, vacate or modify the commissioner's decision or order in whole or in part if it finds that:

(1) The commissioner erred to the prejudice of appellant's substantial rights in his application of the law;

(2) The decision or order was procured by fraud or was based upon a finding of facts contrary to the weight of the evidence; or

(3) The commissioner's action was arbitrary or capricious.

(f) Instead of reversing, vacating or setting aside the commissioner's decision or order or part thereof, the court may remand the case to the commissioner for further proceedings in accordance with the court's directions, or, in advance of judgment and upon a sufficient showing, the court may remand the case to the commissioner for the purpose of taking additional testimony or other proceedings.

(g) From the judgment of the circuit court, either the commissioner or the interested party taking the appeal may appeal directly to the court of civil appeals of Alabama by taking such appeal within 42 days after the date of the making and entering of its judgment by the circuit court. The interested party so appealing to the court of civil appeals of Alabama shall give security for the costs of such appeal to be approved by the register or clerk of the circuit court. No such security shall be required of the commissioner.

§27-2-33. Order of supervision -- Authority of commissioner; reasons for issuance.

The commissioner of insurance is empowered to place an insurance company under supervision, after a hearing thereon, by appropriate order, for the following reasons:

(1) When an insurance company has been notified under the provisions of section 27-27-41 of impairment or deficiency of assets and given 60 days to make good the impairment;

(2) A determination by the commissioner that an insurer is impaired or insolvent;

(3) A determination by the commissioner that an insurer's condition is such as to render the continuation of its business hazardous to its policyholders following an examination of the operations and financial condition of an insurer by the commissioner;

(4) Any of the grounds for rehabilitation or liquidation of domestic insurers set forth in sections 27-32-6 and 27-32-7.

§27-2-34. Same -- Appointment of supervisor; acts which may be prohibited during period of supervision.

During the period of supervision the commissioner may appoint a supervisor and may provide that the insurer may not do the following things during the period of supervision without the prior approval of the commissioner or his duly appointed supervisors:

(1) Dispose of, convey or encumber any of its assets or its business in force;

(2) Withdraw any of its bank accounts;

(3) Lend any of its funds;

(4) Invest any of its funds;

(5) Transfer any of its property;

(6) Incur any debt, obligation or liability;

(7) Enter into any new reinsurance contract or treaty;

(8) Issue to the public policies of insurance.

§27-2-35. Same -- Withdrawal of order; duration of order.

The commissioner shall withdraw the supervision order immediately upon determination that the reasons for the supervision set forth in section 27-2-33 have been corrected or no longer exist, but in no event shall the supervision order last longer than 180 days without another notice and hearing being conducted in the same manner as set out in section 27-2-38.

§27-2-36. Same -- Effect on rehabilitation, liquidation and delinquency proceedings.

The provisions of chapter 32 of this title concerning rehabilitation and liquidation shall not be stayed during the period of supervision and the commencement of delinquency proceedings under section 27-32-4, may commence either before, during or after a supervision order or period of supervision.

§27-2-37. Same -- Form and content; appeal.

The order of supervision issuing after the hearing shall follow the provisions of section 27-2-18, and may be appealed in the same manner as orders falling under the provisions of section 27-2-32.

§27-2-38. Same -- Notice and hearing as to issuance.

No order of supervision shall be issued by the commissioner until the insurance company has been given notice of the commissioner's intentions to place the company under supervision, the appropriate reasons for supervision set out in section 27-2-33 and a hearing held thereon. The notice and hearing shall conform to the requirements set forth in sections 27-2-26 through 27-2-31.

§27-2-50. Established; appointment, term of office and compensation of chief.

There is hereby established within the department of insurance a receivership division to be managed and headed by a chief of said division. The chief of said receivership division shall be appointed by the commissioner of insurance and shall serve at his pleasure. The compensation of said chief shall be fixed by the commissioner; except, that said compensation shall not exceed that of the highest paid division chief in the insurance department under the merit system.

§27-2-51. Bond of chief.

The chief of the receivership division shall make bond payable to the state of Alabama in the amount of \$75,000.00, conditioned upon faithful performance of his duties, the premiums of which shall be borne by the state. In addition each receivership court may require adequate bond of said receiver if the court deems it necessary, the premiums of which shall be paid from funds of the receivership.

§27-2-52. Offices, equipment and personnel; operating expenses.

The commissioner of insurance shall furnish offices, equipment, operating expenses and necessary personnel to maintain and operate the receivership division. The operating expenses of said division shall as far as practical be paid from the receiverships as administrative expenses on a pro rata basis, such expenses to be verified by the receiver to the receivership court having jurisdiction and paid on order of said court into the special examination revolving fund provided for in section 27-2-25. To the extent of and limited to the funds paid into said revolving fund from receiverships, the commissioner of insurance is hereby authorized to draw upon said revolving fund on proper voucher, to pay for salaries, expenses, rent or equipment, or portion thereof, for the proper operation of the receivership division. Expenses and salaries not recoverable from receivership funds may be paid from funds appropriated to the insurance department. The commissioner of insurance is hereby authorized to assign one or more insurance examiners to the receivership division from time to time and to pay their salaries and expenses and to provide necessary equipment from the special examination revolving fund hereinabove mentioned.

§27-2-53. Appointment of chief as receiver -- Generally.

Upon the commissioner of insurance bringing delinquency proceedings against any insurer pursuant to this title, or other insurance laws of the state, the proper circuit court having jurisdiction thereof shall appoint the chief of the receivership division as receiver of such impaired or insolvent insurer, or ancillary receiver if a foreign insurer is found to be impaired or insolvent.

§27-2-54. Same -- Existing receiverships.

The commissioner of insurance, as receiver in any existing receivership, may petition the proper receivership court to name as receiver thereof the chief of the receivership division as provided for in this article, and upon making an accounting of the assets of such receivership by the commissioner, the court shall so change receivers or ancillary receivers by releasing and discharging the commissioner from such duty and responsibility and shall name the chief of the receivership division as receiver or ancillary receiver.

§27-2-55. Assumption by receiver of certain former powers, duties, etc., of commissioner.

All duties, rights, power, authority and responsibility placed upon the commissioner of insurance by sections 27-32-15 through 27-32-36, or by future law, as receiver of an insurer shall be vested in and assumed by the receiver appointed pursuant to this article, however, nothing herein shall divest the commissioner of the authority to examine insurers for solvency and to institute delinquency proceedings pursuant to law.

§27-3-1. Certificate of authority -- Requirement.

(a) No person shall act as an insurer and no insurer shall transact insurance in this state unless so authorized by a subsisting certificate of authority issued to it by the commissioner, except as to such transactions as are expressly otherwise provided for in this title.

(b) No insurer shall from offices or by personnel or facilities located in this state solicit insurance applications or otherwise transact insurance in another state or country unless it holds a subsisting certificate of authority issued to it by the commissioner authorizing it to transact the same kind or kinds of insurance in this state.

§27-3-2. Same -- Exceptions -- Generally.

A certificate of authority shall not be required of an insurer with respect to the following:

(1) Transactions relative to its policies lawfully written in this state or liquidation of assets and liabilities of the insurer, other than collection of new premiums, all as resulting from its former authorized operations in this state;

(2) Transactions thereunder subsequent to issuance of a policy covering only subjects of insurance not resident, located or expressly to be performed in this state at time of issuance and lawfully solicited, written or delivered outside this state;

(3) Transactions pursuant to surplus lines coverages lawfully written under chapter 10 of this title; and

(4) Reinsurance.

§27-3-3. Same -- Same -- Investment in real estate or securities secured thereby.

A foreign insurer may transact business in this state without certificate of authority for the purpose, and to the extent only, of investing its funds in real estate located in this state, or in securities secured thereby, by complying with the requirements of amendment 154 of the Constitution of Alabama. Such an insurer shall not be subject to any other provisions of this title.

§27-3-4. Authority to transact insurance -- Eligibility.

To qualify for and hold authority to transact insurance in this state, an insurer must be otherwise in compliance with this title and with its charter powers and must be an incorporated stock insurer or an incorporated mutual insurer or a reciprocal insurer, all of the same general type as may be formed as a domestic insurer under this title; except that:

(1) No foreign insurer shall be authorized to transact insurance in this state which does not maintain reserves as required by chapter 36 of this title applicable to the kind, or kinds, of insurance transacted by such insurer, wherever transacted in the United States, or which transacts insurance in the United States on the assessment premium plan, stipulated premium plan, cooperative plan or any similar plan;

(2) Any foreign insurer which has transacted insurance as an authorized insurer in its state or country of domicile for less than five years shall not be authorized to transact insurance in this state unless it is otherwise qualified for such authority under this code and is:

a. The wholly owned subsidiary of an insurer authorized to transact insurance in this state;

b. The continuing corporation resulting from a merger or consolidation of insurers at least one of which insurers has been an authorized insurer in its state or country of domicile for at least five years; or

c. Is in compliance with the requirements as to capital and surplus provided therefor under sections 27-3-7 and 27-3-8;

(3) The commissioner shall not grant or continue authority to transact insurance in this state as to any insurer the management of which is found by him, after thorough investigation, to be incompetent or untrustworthy, or so lacking in insurance company managerial experience as to make the proposed operation hazardous to the insurance-buying public or which, after thorough examination or investigation, he has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions or other insurance or business relations with any person, or persons, whose business operations are, or have been, marked to the injury of insurers, stockholders, policyholders, creditors

or the public by manipulation of assets, of accounts or of reinsurance or by bad faith;

(4) No insurer the voting control of which is held, in whole or substantial part, by any government or governmental agency shall be authorized to transact insurance in this state. Membership in a mutual insurer or subscribership in a reciprocal insurer shall not be deemed to be either an ownership or control of the insurer for the purposes of this subdivision; and

(5) Lloyd's plan insurers may be authorized to transact insurance in this state as provided in section 27-3-16.

§27-3-5. Same – Use of name by insurer.

(a) No insurer shall be authorized to transact insurance which has or uses a name so similar to that of another insurer already so authorized as likely to mislead the public.

(b) No life insurer shall be so authorized which has or uses a name deceptively similar to that of another insurer authorized to transact insurance in this state within the preceding 10 years if life insurance policies originally issued by such other insurer are still outstanding in this state.

(c) No insurer shall be so authorized which has or uses a name which tends to deceive or mislead as to the type of organization of the insurer.

(d) In case of conflict of names hereafter between two insurers, or a conflict otherwise prohibited under the foregoing subsections of this section, the commissioner may permit or require, as a condition to the issuance of an original certificate of authority to an applicant insurer, that such insurer shall use in Alabama such supplementation or modification of its name or such business name as may reasonably be necessary to avoid such conflict. No such name, supplementation or modification shall contain the principal identifying factor contained in the name of any other insurer already authorized to transact insurance in this state.

§27-3-6. Same – Kind or combinations of kinds -- Restrictions.

An insurer which otherwise qualifies therefor may be authorized to transact any one kind or combination of kinds of insurance as defined in chapter 5 of this title, except:

(1) A life insurer may grant annuities and shall be authorized to transact in addition only disability insurance, and no insurer shall be authorized to transact life insurance in this state which transacts anywhere any kind of insurance in addition to life and disability insurances and annuities; except, that the commissioner shall, if the insurer otherwise qualifies therefor, continue to so authorize any life insurer which, immediately prior to the effective date of this title, was lawfully authorized to transact in this state a kind or kinds of insurance in addition to life and disability;

(2) A reciprocal or Lloyd's plan insurer shall not transact life insurance; and

(3) A title insurer shall be a stock insurer and shall transact no other kind of insurance; except, that the commissioner may continue to so authorize any insurer which immediately prior to the effective date of this title was lawfully authorized to transact and was lawfully writing in this state a kind, or kinds, of insurance in addition to title insurance.

§27-3-7. Same -- Same -- Minimum paid-in capital stock and surplus.

(a) To qualify for authority to transact any one kind of insurance, as defined in chapter 5 of this title, or combination of kinds of insurance as shown below, an insurer applying for its original certificate of authority in this state after the effective date of this title or continuing such original certificate of authority shall possess and thereafter maintain unimpaired paid-in capital stock, if a stock insurer, or unimpaired surplus, if a foreign mutual or foreign reciprocal insurer, in amount not less than as applicable under the schedule below and shall possess when first so authorized such additional funds as surplus as are required under section 27-3-8:

Kind or kinds of insurance	Minimum capital or surplus required
Life.....	\$800,000.00
Disability.....	500,000.00
Life and disability.....	800,000.00
Property.....	300,000.00
Marine.....	300,000.00
Casualty.....	400,000.00
Surety.....	350,000.00
Title.....	200,000.00
Multiple lines --	
Any two or more: Property, marine, casualty, surety; and all kinds of insurance other than title and life insurance.....	500,000.00

(b) An insurer holding a valid certificate of authority to transact insurance in this state immediately prior to the effective date of this title may continue to be authorized to transact the same kinds of insurance as permitted by such certificate of authority by maintaining thereafter not less than the same amount of paid-in capital stock, if a stock insurer, or not less than the same amount of surplus, if a mutual or reciprocal insurer, as required by the laws of this state for such authority immediately prior to such effective date; but such insurer shall not thereafter be granted authority to transact any other or additional kind of insurance unless it then fully complies with the requirements as to capital and surplus, as applied to all kinds of insurance it then proposes to transact, as provided by this title with respect to insurers applying for original certificates of authority under this title.

(c) Capital and surplus requirements shall be based upon all the kinds of insurance actually transacted, or to be transacted, by the insurer in any and all areas in which it operates, whether or not only a portion of such kinds are to be transacted in this state.

(d) As to surplus required for qualification to transact one or more kinds of insurance and thereafter to be maintained, domestic mutual insurers shall be governed by chapter 27 of this title, and domestic reciprocal insurers shall be governed by chapter 31 of this title.

(e) A life insurer may also grant annuities without additional capital or additional surplus.

(f) A casualty insurer may be authorized to transact also disability insurance without additional capital or additional surplus. (Code 1940, T. 28, §1; Acts 1965, 2nd Ex. Sess., No. 143, p. 194; Acts 1971, No. 407, p. 707, §54; Acts 1975, No. 1041, §1.)

§27-3-8. Same -- Same -- Special surplus.

(a) In addition to the minimum paid-in capital stock (stock insurers) or minimum surplus (mutual and reciprocal insurers) required by section 27-3-7, special surplus shall be possessed by insurers hereafter applying for original certificates of authority in this state as follows:

(1) All stock insurers and foreign mutual and foreign reciprocal insurers which have actively transacted insurance in their states or countries of domicile as an authorized insurer for less than five years and which do not meet the requirements of paragraphs (2) a or (2) b of section 27-3-4, when first authorized to transact insurance in this state shall have a surplus or additional surplus equal to 150 percent of the paid-up capital stock, if a stock insurer, or surplus, if a foreign mutual or foreign reciprocal insurer, otherwise required under section 27-3-7 for the kinds of insurance to be transacted; and

(2) An insurer that has actively transacted insurance as an authorized insurer in its state or country of domicile for more than five years, or which meets the requirements of paragraphs (2) a or (2) b of section 27-3-4, shall possess when first authorized in this state surplus, if a stock insurer, or additional surplus, if a mutual or reciprocal insurer, equal to 100 percent of the paid-in capital stock, if a stock insurer, or surplus, if a foreign mutual or foreign reciprocal insurer, otherwise required under section 27-3-7.

(b) If within five years after date of its original certificate of authority to transact insurance in this state such an insurer requests authority to transact an additional kind or kinds of insurance, it shall not be so authorized unless it then possesses surplus, if a stock insurer, or additional surplus, if a mutual or reciprocal insurer, in such an amount as would be required under this section as for an original certificate of authority covering all the kinds of insurance the insurer then proposes to transact.

(c) After issuance of its original certificate of authority the insurer may use the special surplus required under this section in the normal course of its business only.

(d) Execution by a mutual or reciprocal surety insurer as sole surety of certain bonds or undertakings required or permitted by law or by certain political subdivisions, public bodies or public officers is subject further to surplus requirement as provided in section 27-24-3.

§27-3-9. Minimum capital and surplus for new domestic stock life insurance company.

The minimum capital required to form and organize a new domestic stock life insurance company shall be \$1,000,000.00, and in addition thereto the minimum surplus to form such a company shall be \$1,000,000.00.

§27-3-10. Application of capital surplus to reduction or elimination of deficit by domestic stock insurers.

(a) For the purposes of this section, the following words and phrases shall have the following meanings:

(1) **DOMESTIC STOCK INSURER.** A corporation incorporated under the laws of the state of Alabama with its capital divided into shares and owned by its stockholders which is engaged as indemnitor, surety or contractor in the business of entering into contracts of insurance.

(2) **CAPITAL SURPLUS.** Such term shall have the meaning given thereto in the statutes of this state relating to the powers and procedures of domestic private corporations formed for profit.

(3) **EARNED SURPLUS.** Such term shall have the meaning given thereto in the statutes of this state relating to the powers and procedures of domestic private corporations formed for profit.

(b) A domestic stock insurer which has the minimum unimpaired paid-in capital stock required for the transaction of insurance by such domestic stock insurer by the statutes of this state governing domestic stock insurers may, by resolution of its board of directors, apply any part, or all, of its capital surplus to the reduction or elimination of any deficit, however incurred, but only after first eliminating the then earned surplus, if any, of the domestic stock insurer by applying such earned surplus against such deficit. Each such application of capital surplus shall, to the extent thereof, effect a reduction of capital surplus.

§27-3-11. Deposit requirements -- Generally.

(a) The commissioner shall not issue or permit to exist a certificate of authority as to any insurer, other than an alien insurer, unless it has deposited and maintains deposited in trust with the treasurer of this state cash or securities eligible under section 27-6-3 and having a value at all times of not less than \$100,000.00 or the minimum paid-in capital stock, if a stock insurer, or surplus, if a mutual or reciprocal insurer, required to be maintained by the insurer under this title for authority to transact the kinds of insurance to be transacted, whichever is the smaller amount.

(b) The deposit shall be for the general benefit and protection of the insurer's policyholders or its policyholders and creditors.

(c) In lieu of such deposit, or part thereof, in this state of a foreign insurer, the commissioner shall, subject to the retaliatory law, section 27-3-29, accept the current certificate in proper form of the public official having supervision over insurers in any other state to the effect that a like deposit, or part thereof, of such insurer, comprised of cash or securities of substantially the same character as required under subsection (a) of this section, of similar deposits in this state, is being maintained under law in public custody or control in such state in trust for the purpose, among other reasonable purposes of protection of policyholders or policyholders and creditors, of the protection of all the insurer's policyholders or of its policyholders and creditors in this state.

(d) All such deposits in this state shall be subject to the applicable provisions of chapter 6 of this title.

(e) Any insurance company, with respect to its general account or separate accounts, is authorized to deposit or arrange for the deposit of securities which it may own in a clearing corporation, as defined in section 7-8-102(3), or in a federal reserve bank under the book-entry system. When such securities are so deposited, certificates representing securities of the same class of the same insurer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other securities deposited in such clearing corporation by any person, regardless of the ownership of such securities, and securities of small denominations may be merged into one or more certificates of larger denominations. Title to such securities may be transferred by bookkeeping entry on the books of such clearing corporation or federal reserve bank without physical delivery of certificates representing such securities. Any company making deposits by means of such securities shall provide to the commissioner evidence customarily issued by federal reserve banks and clearing corporations establishing that the securities are actually recorded in a book-entry account or actually held in safekeeping by a clearing corporation. Securities deposited in a clearing corporation or in a book-entry account and used to meet the deposit requirements under the insurance laws of this state shall be under the control of the commissioner and shall not be withdrawn by the insurance company without the approval of the commissioner.

§27-3-12. Same -- Special deposit -- Surety insurers.

(a) In addition to the deposit required under sections 27-3-11 or 27-3-14, a surety insurer shall deposit and maintain deposited with the treasurer of this state in trust for the benefit of holders, resident in this state, of the obligations of the insurer cash or securities eligible under section 27-6-3 having a value at all times of at least \$50,000.00; except, that a domestic surety insurer may take credit for the amount of such special deposit against the deposit otherwise required of it under section 27-3-11, and except that a foreign insurer showing a deposit pursuant to subsection (c) of section 27-3-11 in the amount of \$200,000.00 shall not be required to comply with this section.

(b) Such deposits shall be subject to the applicable provisions of chapter 6 of this title.

§27-3-13. Same -- Same -- Title insurers.

(a) For authority to transact such insurance in this state, a foreign title insurer shall have and maintain on deposit in this state for the better protection of its guaranty holders and creditors, resident in this state, under its contracts of title insurance, cash and securities eligible under section 27-6-3 having a value at all times of not less than \$50,000.00. The deposit shall be so made and maintained in trust with a bank or trust company located in this state, approved by the commissioner, having a capital and surplus of not less than \$500,000.00.

(b) At its option, a domestic title insurer may maintain a deposit in like manner, amount, character and for like purposes as required for foreign insurers under subsection (a) of this section.

(c) Such deposits shall be subject to the applicable provisions of chapter 6 of this title.

§27-3-14. Same -- Alien insurers -- Generally.

(a) An alien insurer shall not have authority to transact insurance in this state unless it has and maintains within the United States as deposits with trustees, public depositories or in trust institutions approved by the commissioner under section 27-3-15 assets available for discharge of its United States insurance obligations, which assets shall be in amount not less than the outstanding liabilities of the insurer arising out of its insurance transactions in the United States together with the greater of the following sums:

(1) The largest deposit required by section 27-3-11 to be made by foreign insurers transacting like kinds of insurance; or

(2) \$300,000.00.

(b) of the amount deposited by an alien insurer, an amount not less than that required under subdivisions (a)(1) or (a)(2) of this section shall be deposited and maintained on deposit in cash or securities eligible for deposit under section 27-6-3 with the treasurer of this state or with or through the public official having supervision of insurance in another state and shall be held in trust exclusively for the benefit and protection of the insurer's policyholders or policyholders and creditors in the United States.

(c) The amount so held on deposit under subdivisions (a)(1) or (a)(2) of this section shall, for the purposes of this title, be deemed to be the paid-in capital, if a stock insurer, or minimum surplus, if a mutual insurer, of the insurer required to be maintained.

(d) If the insurer transacts surety insurance in this state, it shall make and maintain in this state the special deposit required under section 27-3-12.

(e) Any such deposit made in this state shall be subject to the applicable provisions of chapter 6 of this title; except, that if this state is the state of entry into the United States of the alien insurer the deposit shall be subject to the provisions of chapter 33 of this title. (Code 1940, T. 28, §68; Acts 1967, No. 97, p. 436, §1; Acts 1971, No. 407, p. 707, §59.)

§27-3-15. Same -- Same -- Trusteed assets.

(a) In order to comply with the requirements of section 27-3-14, an alien insurer shall appoint citizens of the United States of America or public depositaries or trust institutions located in the United States, all as approved by the commissioner, as trustee, or trustees, to hold its funds and assets in trust for the benefit of its policyholders or policyholders and creditors in the United States. Any such trustee, or trustees, shall be named by the board of directors or comparable directive body of the insurer, and a certified copy of the record of the appointment and of the deed of trust shall be filed with the commissioner.

(b) Funds and assets so held, to the extent that they consist of cash, securities and other assets of the same general character as are eligible for the investment of like funds of a domestic insurer, under sections 27-1-8 and 27-1-9, shall constitute the assets of the insurer for the purposes of this title.

(c) Such trustees and assets, and all accounts and records relating thereto, shall be subject to examination by the commissioner in the same manner as the officers, agents, assets and affairs of insurers.

(d) Trusteed assets of an alien insurer using this state as its state of entry into the United States shall be subject to chapter 32 of this title. (Code 1940, T. 28, §69; Acts 1971, No. 407, p. 707, §60.)

§27-3-16. Lloyd's insurers.

Aggregations of individuals as underwriters, whether domestic, foreign or alien, assuming insurance risks upon the plan known as "Lloyd's," whereby each underwriter is liable for the proportionate part assumed by him of the whole amount so insured by a policy issued by such underwriters, may be authorized to transact any kind, or kinds, of insurance in this state other than life or title insurances if the insurer is otherwise in compliance with this title, subject to the following conditions:

(1) If a foreign or alien insurer, it must have successfully been in business as an authorized insurer in the state or country of domicile for at least 10 years.

(2) If a domestic insurer, it must file with the commissioner evidence, satisfactory to him, that it has been soundly organized and that its insurance operations will, at all times, be competently conducted by individuals having the necessary experience in insurance underwriting and management to do so, that at all times it will be comprised of not less than 30 individual "underwriters," that no such underwriter shall retain risk as to any one subject of insurance in amount exceeding two percent of his total net worth and that the liability of such underwriter, as to any such risk within the extent and amount of coverage provided by the amount of insurance, is unlimited. For the purpose of determining compliance with this provision, the commissioner may at any time require any and all such underwriters to file with him their individual financial statements, duly certified and sworn to under oath, in such form and scope of contents as the commissioner may reasonably require. The assets and insurance transactions of any or all such underwriters shall be subject to examination by the commissioner under the same conditions as apply to domestic insurers in general under chapter 2 of this title.

(3) Such an insurer shall otherwise be subject to the same applicable requirements and obligations as apply under this title to a stock insurer transacting like kinds of insurance; and for the purposes of this title such an insurer's deposit made and maintained as required under section 27-3-11 or subdivision (a)(1) or (a)(2) of section 27-3-14 shall be deemed to be the minimum capital required to be maintained by such an insurer, but subject to the requirements of section 27-3-8 as to surplus. (Code 1940, T. 28, §71; Acts 1971, No. 407, p. 707, §61.)

§27-3-17. Application for certificate of authority -- Filing.

To apply for an original certificate of authority an insurer shall file with the commissioner its application therefor, accompanied by the applicable fees as specified in section 27-4-2, showing its name, location of its home office or, if an alien insurer, principal office in the United States, kinds of insurance to be transacted, state or country of domicile and such additional information as the commissioner may reasonably require, together with the following documents, as applicable:

(1) A copy of its corporate charter, articles of incorporation or other charter documents with all amendments thereto, certified by the public officer with whom the originals are on file in the state or country of domicile;

(2) If a mutual insurer, a copy of its bylaws, as amended, certified by its secretary or other officer having custody thereof;

(3) If a foreign reciprocal insurer, copies of the power of attorney of its attorney-in-fact or its subscribers' agreement, certified by its attorney-in-fact, and if a domestic reciprocal insurer, the declaration provided for by section 27-31-7;

(4) A copy of its financial statement as of December 31, next preceding, on the "convention" form as then currently in general use for similar insurers, sworn to by at least two executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state of domicile or of entry into the United States;

(5) Copy of report of last examination, if any, made of the insurer, certified by the insurance supervisory official of its state of domicile or of entry into the United States;

(6) Appointment of the commissioner pursuant to section 27-3-24 as its attorney to receive service of legal process;

(7) If a foreign or alien insurer, a certificate of the public official having supervision of insurance in its state, or state of entry into the United States or country of domicile showing that it is legally organized and is authorized to transact the kinds of insurance proposed to be transacted in this state;

(8) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records;

(9) Evidence satisfactory to the commissioner of any deposit required under sections 27-3-11, 27-3-12, 27-3-13 or 27-3-14; and

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(10) If other than a life insurer, the affidavit, on a form furnished by the commissioner, of the insurer's president or other chief officer that it has not violated any of the provisions of section 27-3-27 during the preceding 12 months and an agreement that the insurer accepts the terms and the obligations of such section as part of the consideration for authority to transact insurance in this state.

§27-3-18. Same – Issuance or refusal; ownership of certificate.

(a) If upon completion of the application for a certificate of authority the commissioner finds that the insurer has met the requirements for and is entitled thereto under this title, he shall issue to the insurer a proper certificate of authority; if he does not so find, the commissioner shall issue his order refusing such certificate. The commissioner shall act upon an application for a certificate of authority within a reasonable period after its completion.

(b) The certificate, if issued, shall specify the kind, or kinds, of insurance the insurer is authorized to transact in this state. At the insurer's request, the commissioner may issue a certificate of authority limited to particular types of insurance or insurance coverages within the scope of a kind of insurance as defined in chapter 5 of this title.

(c) Although issued to the insurer, the certificate of authority is at all times the property of the state of Alabama. Upon any expiration, suspension or termination thereof, the insurer shall promptly deliver the certificate of authority to the commissioner.

§27-3-19. Continuance, expiration, reinstatement and amendment of certificates.

(a) Certificates of authority issued or renewed under this title shall continue in force as long as the insurer is entitled thereto under this title and until suspended, revoked or terminated at the request of the insurer; subject, however, to continuance of the certificate by the insurer each year by:

(1) Payment prior to March 1 of the continuation fee provided in section 27-4-2; and

(2) Due filing by the insurer of its annual statement for the calendar year preceding as required under section 27-3-26.

(b) If not so continued by the insurer, its certificate of authority shall expire at midnight on the May 31, next following, such failure of the insurer so to continue it in force. The commissioner shall promptly notify the insurer of the occurrence of any such failure resulting in impending expiration of its certificate of authority.

(c) The commissioner may, in his discretion, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in such expiration and upon payment by the insurer of the fee for reinstatement, in addition to the current continuation fee, in the amounts provided in section 27-4-2. Otherwise, the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this state.

(d) The commissioner may amend a certificate of authority at any time to accord with changes in the insurer's charter or insuring powers.

§27-3-20. Suspension or revocation of certificates -- Mandatory grounds; notice and hearing.

(a) The commissioner shall suspend or revoke an insurer's certificate of authority:

(1) If such action is required by any provision of this title;

(2) If the insurer no longer meets the requirements for the authority originally granted on account of deficiency of assets or otherwise; or

(3) If the insurer's authority to transact insurance is suspended or revoked by its state of domicile or state of entry into the United States if an alien insurer.

(b) Except in cases of insolvency or impairment of required capital or surplus or suspension or revocation by another state as referred to in subdivision (a) (3) of this section, the commissioner shall give the insurer at least 10 days' notice in advance of any such suspension or revocation under this section and of the particulars of the reasons therefor. If the insurer requests a hearing thereon within such 10 days, such request shall automatically stay the commissioner's proposed action until his order is made on such hearing.

§27-3-21. Same -- Additional grounds; notice and hearing.

(a) The commissioner may, in his discretion, suspend or revoke an insurer's certificate of authority if, after a hearing thereon, he finds that the insurer has willfully violated any material provision of this title other than those for which suspension or revocation is mandatory or has failed to pay applicable taxes with respect to a preceding calendar year as required by this title.

(b) The commissioner shall, after a hearing thereon, suspend or revoke an insurer's certificate of authority if he finds that the insurer:

(1) Is in unsound condition, or is in such condition or is using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state hazardous to its policyholders or to the public;

(2) Has refused to be examined or to produce its accounts, records and files for examination or if any of its officers or agents have refused to perform any legal obligation relative thereto or have refused to give information with respect to its affairs when required by the commissioner;

(3) Has failed to pay any final judgment entered against it in this state within 30 days after the judgment became final, or within 30 days after the time for taking an appeal has expired or within 30 days after dismissal of appeal before final termination, whichever date is later;

(4) With such frequency as to indicate its general business practice in this state:

a. Has, without just cause, refused to pay proper claims arising under coverages provided by its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to liability of an insured to such third person; or

b. With like frequency and without just cause, compels insureds or claimants in this state to accept less than the amount due them or compels them to employ attorneys or to bring an action against the insurer or such an insured to secure full payment or settlement of such claims; provided, that as a condition precedent to a revocation or suspension of the insurer's certificate of authority under this subsection there has been a prior determination that the insured has engaged in an unfair method of competition or an unfair act or practice in the business of insurance; or

(5) Is affiliated with and under the same general management or interlocking directorate or ownership as another insurer which transacts direct insurance in this state without having a certificate of authority therefor, except as permitted as to surplus line insurers under chapter 10 of this title.

(c) The commissioner may, in his discretion and without advance notice on a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the insurance supervisory official of such state.

§27-3-22. Same -- Order and notices.

(a) Suspension or revocation of an insurer's certificate of authority shall be by the commissioner's order given to the insurer as provided by section 27-2-18. The commissioner shall promptly also give notice of such suspension or revocation to the insurer's agents in this state of record in the commissioner's office. The insurer shall not solicit or write any new coverages in this state during the period of any such suspension or revocation.

(b) In his discretion, the commissioner may cause notice of any such revocation to be published in one or more newspapers of general circulation published in this state.

(c) Upon revocation or suspension of the certificate of authority of a surety insurer, the commissioner shall so notify each officer in this state authorized to approve official bonds by circular letter stating the grounds of such suspension or revocation.

§27-3-23. Same -- Duration of suspension; obligations of insurer during suspension; reinstatement.

(a) Suspension of an insurer's certificate of authority shall be for such period as is fixed by the commissioner in the order of suspension, but not to exceed one year from the date of suspension, unless the commissioner shortens or rescinds such suspension or the order upon which the suspension is based is modified, rescinded or reversed.

(b) During the period of suspension the insurer shall file its annual statement, pay fees, licenses and taxes as required under this title as if the certificate had continued in full force, and it may service its outstanding policies and adjust losses thereunder.

(c) Upon expiration of the suspension period, if within such period the certificate of authority has not otherwise terminated, the insurer's certificate of authority shall automatically reinstate unless the commissioner finds that the causes of the suspension have not been removed or that the insurer is otherwise not in compliance with the requirements of this title, of which the commissioner shall give the insurer notice not less than 30 days in advance of the expiration of the suspension period. If not so automatically reinstated, the certificate of authority shall be deemed to have expired as of the end of the suspension period or upon failure of the insurer to continue the certificate during the suspension period, whichever event first occurs.

(d) Upon reinstatement of the insurer's certificate of authority, the authority of its agents in this state to represent the insurer shall likewise reinstate. The commissioner shall promptly notify the insurer and its agents in this state of record in the department of such reinstatement.

§27-3-24. Service of process on insurers -- Appointment of commissioner as agent.

(a) Each insurer applying for a certificate of authority to transact business in this state shall file with the commissioner an appointment of the commissioner and his successors in office, on a form as furnished by the commissioner, as its attorney upon whom may be served all lawful process in any action or proceeding against it in this state and therein shall agree that any such process served upon such attorney shall be of the same force and validity as if served on the insurer. The appointment shall be irrevocable, shall bind the insurer and any successor in interest or to the assets or liabilities of the insurer and shall remain in effect as long as there is outstanding in this state any obligation or liability of the insurer resulting from its transactions therein.

(b) At the time of such appointment of the commissioner as its process agent, the insurer shall file with the commissioner designation of the name and address of the person to whom process against it served upon the commissioner is to be forwarded. The insurer may change such designation by a new filing. (Code 1940, T. 28, §65; Acts 1971, No. 407, p. 707, §69.)

§27-3-25. Same -- How served; time to answer or plead.

(a) Service of process upon the commissioner as process agent of the insurer under section 27-3-24 shall be made by the proper officer of Montgomery county by serving copies in triplicate of the process upon the commissioner or upon his assistant, deputy or other person in charge of his office. Upon receiving such service, the commissioner shall promptly forward a copy thereof by certified mail or registered mail, with return receipt requested, to the person last designated by the insurer to receive the same, as provided under subsection (b) of section 27-3-24, return one copy with his admission of service and retain one copy in the files of the department. The commissioner shall keep a record of all actions filed

against insurers wherein process is served on the commissioner, noting the name of the insurer, the date of service and the type of action.

(b) Where process is served upon the commissioner as an insurer's process agent, the insurer shall not be required to answer or plead except within 30 days after the date upon which the insurer's designee received the copy of the process mailed by the commissioner, as shown by the return receipt therefor referred to in subsection (a) of this section.

(c) Process served upon the commissioner, and copy thereof forwarded as in this section provided, shall for all purposes constitute valid and binding service thereof upon the insurer.

(d) This section shall not be deemed to prohibit service of process upon an insurer by any other method provided for by law. (Code 1940, T. 28, §65; Acts 1971, No. 407, p. 707, §70.)

§27-3-26. Annual statement of insurers; furnishing of other information on request.

(a) Each authorized insurer shall, annually on or before March 1, or within such extension of time not exceeding 30 days after March 1 as the commissioner for good cause shown may grant as to a particular insurer, file with the commissioner a full and true statement of its financial condition, transactions and affairs as of the December 31, preceding. The statement shall be in such general form and context as is in current use for similar reports to states in general with respect to the type of insurer and kinds of insurance to be reported upon and as supplemented by additional information required by the commissioner. The statement shall be verified by the oath of the insurer's president or vice-president and secretary or actuary as applicable or, if a reciprocal insurer, by the oath of the attorney-in-fact or its like officers if a corporation.

(b) The statement of an alien insurer shall be verified by the insurer's United States manager or other officer duly authorized and shall relate only to its transactions and affairs in the United States, unless the commissioner requires otherwise. If the commissioner requires a statement as to the alien insurer's affairs throughout the world, the insurer shall file such statement with the commissioner as soon as reasonably possible.

(c) The commissioner may in his discretion suspend or revoke the certificate of authority of an insurer failing to file its annual statement when due. In addition the insurer shall be subject to a penalty of \$250.00, such penalty to be collected by the commissioner, if necessary, by a civil action therefor brought by the commissioner in the circuit court of Montgomery county, unless waived by the commissioner upon a showing by the insurer of good cause for its failure to file its report on or before the date due.

(d) At time of filing, the insurer shall pay the fee for filing its annual statement as prescribed by section 27-4-2.

(e) In addition to information called for and furnished in connection with its annual statement, an insurer shall furnish promptly to the commissioner such information with respect to any of its transactions or affairs as the commissioner may, from time to time, request in writing.

§27-3-26.1. Annual statement to include statement of qualified independent loss reserve specialist.

Every property or casualty insurer required to file an annual statement with the commissioner on March 1 of each year preceding, pursuant to Section 27-3-26, shall include a statement of a qualified independent loss reserve specialist setting forth his or her opinion relating to loss and loss adjustment expense reserves. For the purposes of this section, a qualified independent loss reserve specialist shall mean a person who is not an employee, principal, director, or indirect owner of the insurer and is a member of the Casualty Actuarial Society, or has such other experience as is acceptable to the commissioner to assure a professional opinion on the adequacy of loss and loss adjustment expense reserves.

§27-3-27. Insurers to do business through licensed agents, etc.; exceptions.

(a) No insurer shall, in this state, directly or indirectly, accept applications for insurance, negotiate for or issue any policy or contract of insurance or assume direct liability as to a subject of insurance resident, located or to be performed in this state unless through insurance agents, solicitors or brokers duly licensed under the provisions of this title.

(b) This section shall not apply to title insurance or insurance of the rolling stock, vessels or aircraft of any common carrier in interstate or foreign commerce or covering any liability or other risks incident to the ownership, maintenance or operation thereof. This section shall not apply as to life or disability insurance not delivered or issued for delivery in this state and lawfully solicited outside this state.

§27-3-28. Execution of contracts through countersigning resident agent; exceptions.

(a) To assure the validity and construction of contracts according to the laws of this state and to facilitate the collection of privilege taxes and fees, all property, surety and casualty insurers doing business in this state shall execute all contracts upon property or risks in this state through a resident agent of the insurer, duly licensed under this title, who shall execute or countersign all such contracts.

(b) Each such agent shall keep a true record of all contracts thus executed or countersigned by him and shall, upon request, furnish a verified copy thereof to the commissioner to aid him in the collection of all privilege taxes due in this state.

(c) No such countersignature may be made by any solicitor, managing general agent or service representative, nor by any servant or employee thereof nor by any servant or employee of the insurer; except,

(1) that this provision shall not prevent any servant or employee of a direct-writing insurer from being licensed under this title as a resident insurance agent of the insurer to countersign contracts of insurance; and

(2) residual-type insurance plans that have been approved by the commissioner may be countersigned by designated employees of the insurer or association sponsoring such plan.

(d) As to policies covering property or risks located in more than one state, the insurer may, in its discretion, use a countersignature endorsement thereon showing the policy to which attached and information in respect to such policy, including full premium information sufficient for the countersigning agent's records. Such endorsement shall be signed by the countersigning agent in lieu of countersignature of the original policy.

(e) No countersigning resident agent shall countersign a policy or countersignature endorsement in blank, except as to policy and endorsement forms of direct writing insurers reflecting same filed with and approved by the commissioner.

(f) This section shall not apply to:

(1) Insurance of the rolling stock, vessels or aircraft of any common carrier in interstate or foreign commerce or of any vehicle principally garaged and used in another state, or covering any liability or other risks incident to the ownership, maintenance or operation thereof;

(2) Insurance of property received for shipment or delivery or in transit while in the possession and custody of railroads or other common carriers;

(3) Wet marine and transportation insurance;

(4) Reinsurance contracts between insurers; or

(5) Bid bonds issued in connection with any public or private contracts.

§27-3-29. Protection of state insurers against foreign discriminatory or onerous requirements.

(a) The purpose of this section is to aid in the protection of insurers formed under the laws of Alabama and transacting insurance in other states or countries against discriminatory or onerous requirements under the laws of such states or countries or the administration thereof.

(b) When by or pursuant to the laws of any other state or foreign country, any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are, or would be, imposed upon Alabama insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this state, so long as such laws of such

other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions or restrictions, of whatever kind, shall be imposed by the commissioner upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in Alabama. Any tax, license or other fee or other obligation imposed by any city, county or other political subdivision or agency of such other state or country on Alabama insurers, or their agents or representatives, shall be deemed to be imposed by such state or country within the meaning of this section.

(c) This section shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance, other than property insurance; except, that deductions from premium taxes or other taxes otherwise payable allowed on account of real estate or personal property taxes paid shall be taken into consideration by the commissioner in determining the propriety and extent of retaliatory action under this section.

(d) For the purposes of this section, the domicile of an alien insurer, other than insurers formed under the laws of Canada or a province thereof, shall be that state designated by the insurer in writing filed with the commissioner at time of admission to this state or within six months after the effective date of this title, whichever date is the later, and may be any one of the following states:

(1) That in which the insurer was first authorized to transact insurance;

(2) That in which is located the insurer's principal place of business in the United States; or

(3) That in which is held the larger deposit of trustee assets of the insurer for the protection of its policyholders or policyholders and creditors in the United States.

If the insurer makes no such designation its domicile shall be deemed to be that state in which is located its principal place of business in the United States.

(e) In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which is located its head office.

§27-3-30. Foreign insurer may become domestic insurer; method; certificate and license eligibility; authority and jurisdiction of state; continuation of corporate existence and date of incorporation.

Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business at a place in this state. Said domestic insurer will be entitled to like certificates and licenses to transact business in this state and shall be subject to the authority and jurisdiction of this

state. Articles of incorporation of such domestic insurer may be amended to provide that the corporation is a continuation of the corporate existence of the original foreign corporation through adoption of this state as its corporate domicile and that the original date of incorporation in its original domiciliary state is the date of incorporation of such domestic insurer.

§27-3-31. Domestic insurer may transfer domicile to another state and be admitted as foreign insurer if so qualified; approval of commissioner of insurance; effect of interests of policyholders.

Any domestic insurer may, upon the approval of the commissioner of insurance, transfer its domicile to any other state in which it is admitted to transact the business of insurance, and upon such a transfer shall cease to be a domestic insurer, and shall be admitted to this state if qualified as a foreign insurer. The commissioner of insurance shall approve any such proposed transfer unless he shall determine such transfer is not in the interest of the policyholders of this state.

§27-3-32. Same; effect upon certificates of authority, agents, etc., including outstanding policies; insurer's duty to file new policy forms; insurer's duty to notify commissioner of details of transfer and file amendments required by law.

The certificate of authority, agents appointments and licenses, rates, and other items which the commissioner of insurance allows, in his discretion, which are in existence at the time any insurer licensed to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger, consolidation or any other lawful method shall continue in full force and effect upon such transfer if such insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the company or its new location unless so ordered by the commissioner of insurance. Every transferring insurer shall file new policy forms with the commissioner of insurance on or before the effective date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by and under such conditions as approved by the commissioner of insurance. However, every such transferring insurer shall notify the commissioner of insurance of the details of the proposed transfer, and shall file promptly any resulting amendments to corporate documents filed or required to be filed in accordance with sections 10-2A-90 through 10-2A-284, 27-3-17, 27-27-5 and 27-27-22.

§27-3-33. Rules and regulations.

The commissioner of insurance of this state may promulgate necessary rules and regulations to carry out the purposes of sections 27-3-30 through 27-3-32.

§27-4-1. Definitions.

REPEALED BY ACTS 1993, NO. 93-679, § 12. EFFECTIVE JANUARY 1, 1995.

For the purposes of this chapter, unless otherwise stated, the following terms shall have the meanings respectively ascribed to them by this section.

(1) **INSURER.** Such term shall include every insurer as defined in section 27-1-2 and shall include nonprofit corporations organized pursuant to the provisions of section 10-4-100 et seq. or any other insurance company or association or society charging a premium for contracts entered into by such companies, associations or societies; provided, however, that the exemptions granted in chapter 34 of this title are applicable hereto.

(2) **FOREIGN INSURER.** Such term shall include any insurance company organized under the laws of any country or of any state of the United States other than the state of Alabama and shall also include insurance companies organized under the laws of Alabama which maintain their principal office or chief place of business outside the state of Alabama.

(3) **DOMESTIC INSURER.** Such term shall include any insurance company organized under the laws of the state of Alabama which maintains its principal office and chief place of business in the state of Alabama.

(4) **PREMIUMS.** Such term shall include all amounts received in cash or otherwise on risks in this state as consideration for insurance contracts, less:

a. Insurance premiums returned;

b. Reinsurance premiums from insurance companies authorized to do business in Alabama and subject to the premium tax provided for in this chapter; and

c. Dividends paid, applied or left with the company to accumulate at interest.

With respect to title insurers, the term "premium" shall not include charges for abstracting, record searching, certificates as to the record title, escrow and closing services and other related services which may be offered or furnished or the costs and expenses of examinations of title.

(5) **ANNUITY CONSIDERATIONS.** All sums received as consideration for annuity contracts.

§27-4-2. Advance fees, licenses and miscellaneous charges.

(a) The commissioner of insurance shall collect in advance fees, licenses and miscellaneous charges as follows:

(1) Certificate of authority:

a. Initial application for original certificate of authority, including the filing with the commissioner of all documents incidental thereto.....\$ 500.00

b. Issuance of original certificate of authority.....500.00

c. Annual continuation or renewal fee.....500.00

d. Reinstatement fee.....500.00

(2) Charter documents, filing with the commissioner amendment to articles of incorporation or of association, or of other charter documents or to bylaws.25.00

(3) Solicitation permit, filing application and issuance.....250.00

(4) Annual statement of insurer, except when filed as part of application for original certificate of authority, filing.....25.00

(5) Agent Licenses and Appointments:

a. Property, casualty and surety agents (resident or nonresident):

1. Application fee (For filing of application for license or appointment)..20.00

2. Appointment fee (For appointment of agent by insurer and annual renewal of appointment, each insurer)

(i) All classification except comprehensive property, casualty and surety, each classification.....7.50

(ii) Comprehensive property, casualty and surety.....7.50

b. Life and disability resident agents

1. Application fee (For filing of application for license).....20.00

2. License fee (For original license and each annual renewal, each insurer).....7.50

c. Life and disability nonresident agents

1. Application fee (For filing application for license).....20.00

2. License fee (For original license and each annual renewal, each insurer).....30.00

d. Examination fees (For filing application for examination or reexamination of resident agent or broker)

1. Each classification of examination except comprehensive property, casualty and surety.....10.00

2. Comprehensive property, casualty and surety.....30.00

e. Each vending machine licensed under section 27-8-23, each year...25.00

(6) Broker's license (resident or nonresident brokers):

a. Filing application for license.....20.00

b. Issuance of license.....50.00

c. Annual continuation of license.....50.00

(7) Solicitor's license:

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a. Annual continuation of license.....	20.00
(8) General agent's license:	
a. Filing application for license.....	30.00
b. Issuance of license, property and casualty, each insurer.....	25.00
c. Annual continuation of license, each insurer.....	25.00
(9) Service representative's license:	
a. Filing application for license.....	20.00
b. Issuance of license, property and casualty, each insurer.....	20.00
c. Annual continuation of license, property and casualty, each insurer...	20.00
(10) Surplus line broker license, each license year.....	50.00
(11) Adjusters:	
a. License.....	40.00
b. Annual continuation of licenses.....	40.00
(12) Miscellaneous services:	
a. For copies of documents, records on file in insurance department, per page.....	1.00
b. For each certificate of the commissioner under his seal, other than agent licenses.....	5.00
(13) The commissioner is hereby authorized and directed to collect a fee of \$25.00 when, in acting as agent or attorney for any insurance company, fraternal benefit society, mutual aid association or credit union, he accepts the service of legal process as provided by the laws of this state. He shall refuse to receive and file or serve any process unless such process is accompanied by the aforementioned fee, which shall be taxed as costs in the action.	

(b) The commissioner shall promptly pay all fees and licenses collected under this section into the state treasury to the credit of the general fund.

§27-4-3. Annual tax statement of insurers; exception.

REPEALED BY ACTS 1993, NO. 93-679, § 12. EFFECTIVE JANUARY 1, 1995.

Each authorized insurer shall annually, on or before March 1, file with the commissioner a statement, in form as furnished or approved by him, setting forth the total amount of premiums and annuity considerations received by it for

business done in this state during the preceding calendar year ending December 31, except as to wet marine and transportation insurance as defined in section 27-5-8. The statement shall be verified by the affidavit of an officer of the insurer having knowledge of the facts.

§27-7-1. Definitions.

(a) For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **AGENT.** A natural person, partnership or corporation appointed by an insurer to solicit and negotiate insurance contracts on its behalf, and if authorized to do so by the insurer, to effectuate, issue and countersign such contracts. An agent may not delegate the countersignature authority by appointing another person as his attorney-in-fact, except, that this provision shall not apply to agents for direct-writing insurers.

(2) **BROKER.** A natural person, partnership or corporation who, on behalf of the insured, for compensation as an independent contractor, for commission or fee and not being an agent of the insurer, solicits, negotiates or procures insurance or the renewal or continuance thereof, or in any manner aids therein, for insureds or prospective insureds other than himself or itself. Brokers cannot bind the insurer and all business produced must be countersigned by a resident agent of the insurer accepting the risk.

(3) **SOLICITOR.** A natural person appointed and authorized by a licensed agent or broker to solicit applications for insurance as a representative of such agent or broker and to collect premiums thereon when expressly so authorized by the agent or broker. A solicitor may not bind the insurer, accept risks or countersign policies of insurance. The solicitor must be domiciled in the same city or town as the sponsoring agent and must be under the direct supervision of the agent. An individual employed by and devoting full time to clerical work with incidental taking of insurance applications and receiving premiums in the office of the agent or broker shall not be deemed to be a solicitor if his compensation is not related to the volume of such applications, insurances or premiums.

(4) **MANAGING GENERAL AGENT.** An individual, firm or corporation appointed as an independent contractor by one or more insurers for the principal purpose of exercising general supervision over the business of the insurer in Alabama, with authority to appoint agents for such insurer and to terminate such appointments. The authority of a managing general agent shall not include countersignature privileges. A managing general agent shall otherwise qualify and be licensed as such as provided in this chapter, but shall not be required to take and pass an examination nor be a resident of Alabama. A managing general agent must be licensed for each insurer represented and for each class of insurance handled by the insurer in this state.

(5) **SERVICE REPRESENTATIVE.** A natural person, other than an officer, manager or managing general agent of the insurer, employed on salary by an insurer or managing general agent to work for, with or through agents in soliciting, negotiating and effectuating insurance in such insurer or in the insurers

represented by the managing general agent. Officers and salaried nonresident traveling representatives of a mutual insurer operating on the premium deposit plan or of a reciprocal insurer not using resident agents for the solicitation of business who inspect risks or solicit insurance in this state and who receive no commissions from the insurer shall be deemed also to be service representatives. A service representative shall otherwise qualify and be licensed as such under this chapter, but shall not be required to take and pass an examination nor be a resident of Alabama if he is qualified as a service representative in the state of his domicile. Service representatives are not authorized to countersign policies of insurance in the state of Alabama. The service representative must be licensed for each insurer or association of insurers represented and for each class of insurance handled by such insurer or insurers in this state.

(b) In addition to persons excluded by the terms thereof, the definition of an agent, broker, solicitor, managing general agent or service representative shall not be deemed to include any of the following:

(1) Salaried employees rendering solely clerical and administrative services in the office of the employer;

(2) Salaried administrative and clerical employees of agents and brokers performing any functions in the office and under the supervision of the employer and receiving no commissions;

(3) Salaried employees of insurers or organizations employed by insurers engaged in inspection, rating or classifying risks or in general supervision of agents and not in the solicitation or the writing of insurance;

(4) officers of insurers or of an association of insurers engaged in the performance of their usual and customary executive duties, exclusive of field solicitation of insurance other than rendering assistance to, or on behalf of, a licensed agent but receiving no commission or other compensation directly dependent upon the amount of business transacted;

(5) Persons completing or delivering declarations or certificates of coverage under running inland marine insurance contracts evidencing coverage thereunder, if:

a. Such persons receive no commissions directly or indirectly on such insurance; and

b. Such persons or their employers have an insurable interest in the risk evidenced by the certificate or declaration; and

(6) Persons who secure and furnish information for the purpose of group life insurance, group or blanket health insurance or annuity coverages, or for enrolling individuals under such plans or issuing certificates thereunder or otherwise assisting in administering such plans where no commission is paid for such services.

§27-7-2. Applicability of chapter.

This chapter applies only as to agents, brokers, solicitors and other insurance representatives, as defined in this chapter, transacting, or proposing to transact, as such representatives, any of the following kinds of insurance:

(1) Property insurance, except as to insurance of baggage or personal effects while in possession of a common carrier in connection with travel of the insured when such insurance is effectuated through ticket or transportation agencies selling tickets for such common carrier;

(2) Casualty insurance, except as to insurance of baggage or personal effects under the same circumstances as stated in subdivision (1) of this section;

(3) Surety insurance;

(4) Disability insurance when transacted by a casualty insurer; and

(5) For the purposes of this chapter "property" insurance includes also "wet marine and transportation" insurance as defined in section 27-5-9.

§27-7-3. Applicability of provision on insurance vending machines.

Section 27-8-23, as to licensing of vending machines for the sale of personal travel accident insurance, shall also apply as to agents licensed under this chapter and appointed by any insurer authorized to transact disability insurance in this state.

§27-7-4. Licenses – Requirement; forms.

(a) No person shall in this state be, act as, hold himself out as or claim to be or act as an agent, broker, solicitor, managing general agent or service representative unless then licensed as such agent, broker, solicitor, managing general agent or service representative under this chapter. Any insurer accepting business directly from a person not licensed to transact such business and not appointed by such insurer shall be liable to a fine up to three times the premium received from such unlicensed person.

(b) No agent, broker or solicitor shall solicit or take application for, procure or place for others any kind of insurance as to which he is not then licensed.

(c) No agent shall place any business, other than coverage of his or its own risks, with any insurer for which an appointment is not held as agent under this chapter.

(d) The commissioner shall prescribe and furnish on request all forms required in connection with application for, issuance, continuation or termination of licenses and appointments.

§27-7-5. Same – Qualifications.

For the protection of the people of this state, the commissioner shall not issue, continue or permit to exist any agent, broker, solicitor, managing general agent or service representative license for and on behalf of any natural person

except in compliance with this chapter, or as to any individual not qualified therefor as follows:

(1) Must be 19 years or more of age, or be an individual whose disabilities of minority have been removed; except, that a managing general agent license may also be issued to a firm or corporation;

(2) Must be a citizen of the United States of America;

(3) Must be domiciled in and have been a bona fide resident of this state for not less than six months preceding the date of application for the license; except that this provision does not apply as to managing general agents or service representatives. The residence and domiciliary requirement may be waived upon determination by the commissioner that such waiver would be in the public interest and would prevent a hardship, if the applicant for a license:

a. Is a bona fide resident of and maintains an established office in a populous community lying partly in Alabama and partly in an adjoining state, which is composed of two or more contiguous cities, towns or villages not completely separated by a natural boundary;

b. Designates in writing the commissioner of insurance as his agent or attorney for acceptance of personal service of process in all actions involving matters connected with or arising out of his insurance business conducted in Alabama;

c. Agrees to keep like records, make similar reports and permit inspection of his records to the same extent as other licensees under this section; and

d. If the adjoining state by law or administrative action accords residents of Alabama a like waiver, benefit or privilege;

(4) Must be of good moral character and not have been convicted of a felony nor of any crime involving moral turpitude;

(5) Must intend to and, commencing immediately after issuance of such a license, shall, during the existence of the license, actively engage as to the general public in the business permitted under this license;

(6) If to be licensed as a broker, must have had experience either as an agent, solicitor, adjustor, managing general agent, broker or as an employee or special representative of an insurer, or insurers, or special education or training of sufficient duration and extent reasonably necessary for competence in fulfilling the responsibilities of a broker;

(7) Must not use, or intend to use, the license principally for the purpose of procuring insurance of his own risks or interests, or those of his relatives to the second degree or of his firm, corporation or employer;

(8) Must attend a pre-qualification course consisting of 40 classroom hours or equivalent individual instruction on the general principles of insurance, such course to be taught only by those educational institutions, junior or senior

colleges, technical colleges, trade schools, insurance companies or insurance trade organizations which hold written authority from the commissioner to issue certificates of completion;

a. Each such authority holder must apply annually for the continued authority to issue certificates under rules and regulations to be prescribed by the commissioner;

b. Prior to writing the designated examination for license, the applicant must furnish a certificate of completion of the aforesaid pre-qualification course from the authorized educational institution, insurance company or insurance trade organization;

c. All applicants under this chapter who are holders of the professional designation Chartered Property Casualty Underwriter (CPCU) or Certified Insurance Counselor (CIC) or such other professional insurance designations as the commissioner may prescribe by regulation shall be deemed to have completed the pre-qualification course as prescribed in this subdivision;

d. All applicants for license to transact only the following kinds of insurance shall be exempt from the requirements of this subdivision:

1. automobile physical damage insurance,
2. industrial fire (commonly known as debit fire) insurance, or
3. physical damage coverage on household goods;

e. An applicant who has been licensed under a like license in another state within 12 months prior to his application for a license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in such other state as to the applicant's license and good standing in such state shall be exempt from the requirements of this subdivision. A facsimile signature and seal of the certifying public official will be deemed sufficient.

f. All agents, brokers, solicitors, managing general agents and service representatives who are lawfully licensed as such immediately prior to the effective date of the 1979 amendment, are exempt from the requirements of this section unless, after such effective date, any such license is permitted to expire or is otherwise terminated and remains out of effect for a period of 24 consecutive months, the exemption from a pre-qualification course shall no longer be applicable.

(9) Must pass any written examination for the license required under this chapter, except that no examination shall be required of an applicant whose license is limited to acting only as an agent with respect to personal property insurance sold to borrowers or debtors under a master group policy issued to a creditor, if such applicant is a full-time employee of the institution granting the credit.

§27-7-6. Same -- Artificial entities.

(a) A partnership or corporation may be licensed as an insurance agent or broker provided:

(1) Every member of the partnership and every officer, director, stockholder and employee of the corporation personally engaged in this state in soliciting or negotiating policies of insurance shall be registered with the commissioner as to its license, and each such member, officer, director, stockholder or employee shall also qualify as an individual licensee; and

(2) The partnership or corporation is organized under the laws of this state and the transaction of the insurance business under the license is within the purposes stated in the partnership's agreement or the corporation's articles.

(b) The partnership or corporate licensee shall within 10 working days notify the commissioner of every change relative to the individuals registered with the corporate or partnership license.

§27-7-7. Same -- Application -- Generally; fees.

(a) The commissioner shall not issue any license except upon application therefor as in this chapter provided. Each applicant for a license shall file annually with the commissioner his written application therefor signed by him and showing:

(1) His name, age and place of residence;

(2) The kinds of insurance to be transacted under the license and the insurer or insurers he proposes so to represent;

(3) The person, firm or corporation by whom he expects to be employed or associated with as such licensee and his status as an officer or representative thereof;

(4) Whether he proposes to write or solicit insurance of his own risks and interests, or those of his relatives, any firm or corporation in which he is financially interested or connected, directly or indirectly, or of his employer;

(5) A short business history of the applicant and the name and nature of any business enterprise with which he may be associated;

(6) The extent of his formal education and business experience or apprenticeship;

(7) Whether he has ever applied previously for a license or been licensed to transact any kind of insurance business in this state or elsewhere and whether any such license was ever refused, suspended or revoked;

(8) Whether any insurer or managing general agent claims that he is in default as to premiums or other moneys collected and not accounted for and, if so, the details thereof and like information as to any member of his family who is then, or has theretofore been, engaged in the insurance business; and

(9) Any additional information reasonably required by the commissioner.

Additional licenses shall require the applicant's full name, residence, age, place of business and certification whether he has had a license to solicit insurance contracts refused, suspended, or revoked since his last annual license; whether applicant has had any agency contract cancelled and, if so, when, by what insurer and the reason for the cancellation; and whether the applicant has been convicted of a felony since his last annual license.

(b) If the applicant for an agent's or broker's license is a partnership or corporation, the application shall show, in addition, names of every member of the partnership and every officer, director, stockholder and employee of the corporation personally engaged in this state in soliciting or negotiating policies of insurance. Each such member, officer, director, stockholder or employee shall furnish information with respect to himself as part of the application, as though for an individual license, and shall otherwise meet the requirements for an individual license.

(c) Partnerships and corporations shall file their organizational documents with the commissioner, accompanied by an initial filing fee of \$50.00. The license shall continue in effect, subject to an annual fee of \$50.00, unless cancelled, suspended or revoked. Each partnership and corporation shall file with the commissioner any change in its organization accompanied by a fee in the amount of \$10.00.

(d) At the time of filing his original application for license, the applicant shall pay to the commissioner the application fee and the fees for any examinations required under section 27-7-10 as specified in section 27-4-2. Such fees shall not be returnable. Appointment fees, as required in section 27-4-2, shall be paid as to each individual included in the application for a partnership or corporation license.

(e) If the commissioner has contracted with a qualified testing institution as provided for in section 27-7-11 (c), fees approved for such services by the commissioner may, at the commissioner's discretion, be paid directly to such testing institution and such fee shall be in lieu of but not in excess of the fees for the examination required under section 27-7-10 as specified in section 27-4-2.

§27-7-8. Same -- Same -- Statement of appointing insurer for agent.

An insurer intending to appoint a person as its agent shall file with the commissioner its statement showing:

(1) The kind or kinds of insurance or classifications thereof as provided in section 27-7-11 it proposes to authorize the applicant to solicit or write;

(2) What investigation it has made of the applicant's qualifications, character and fitness for the duties to be assumed and the results of such investigation; and

(3) Such additional information as the commissioner reasonably requires.

§27-7-9. Same -- Same -- Statement of appointing agent or broker for solicitor.

(a) No application for a license as solicitor shall be filed with the commissioner and no solicitors' licenses shall be granted by the commissioner after December 31, 1988.

(b) Persons holding a valid solicitor's license on December 31, 1988, may continue to renew such license after December 31, 1988, subject to those persons otherwise meeting the requirements of this chapter.

(c) If, after December 31, 1988, any such license is permitted to expire or is otherwise terminated and remains out of effect for a period of 12 consecutive months, it shall not be renewed by the commissioner or otherwise reactivated.

§27-7-10. Same -- Examination -- Scope; notification; when given.

(a) After completion and filing of the application for license as required in sections 27-7-7 through 27-7-9, the commissioner shall give each applicant for license as agent, broker or solicitor, unless exempted from examination under section 27-7-13, a written examination of sufficient scope reasonably to test the applicant's knowledge relative to the kinds of insurance or classes thereof which may be dealt with under the proposed license and of the duties, responsibilities of and laws of this state applicable to such a licensee.

(b) If the applicant is a partnership or corporation, the examination shall be taken and initial educational requirements met by each individual who is to be designated in the license as having authority to act for the applicant under the license.

(c) Within 15 days after receipt of the application, the commissioner or any testing institution as authorized in section 27-7-11 shall notify the applicant by letter addressed to him at his address as shown on his application of the time and place of the examination for license. The examination shall be given, within not more than 60 nor less than three days after the giving of the notice, at the office of the commissioner at Montgomery or at such other place in Alabama as the commissioner reasonably designates; except, that the commissioner shall schedule an examination at least once in each calendar month, and any applicant otherwise eligible to take the examination shall be allowed at his request to take at that time all examinations relative to licenses for which he has applied, including examinations for license as an agent for life and disability insurances under chapter 8 of this title.

§27-7-10.1. Same -- Same -- Waiting period for person failing two examinations.

No person who has taken and failed to pass two examinations given pursuant to section 27-7-10 shall be entitled to take any further examination until after the expiration of three months from the date of the last examination which he failed to pass. If such person thereafter fails to pass two more such examinations, he shall not be eligible to take any further examination until after the expiration of six months from the date of his last unsuccessful examination. An examination fee shall be paid for each and every examination.

§27-7-11. Same -- Same -- Study materials; contents; conduct; grading.

(a) An applicant for license as agent, broker or solicitor shall be so examined as to any one or more of the following kinds of insurance or insurance classifications, as applied for:

- (1) Automobile insurance;
- (2) Industrial fire (commonly known as debit fire) insurance;
- (3) Physical damage coverage on household goods;
- (4) Comprehensive property, casualty and surety insurance;
- (5) Bail bond insurance; and

(6) Any other reasonable classification prescribed by order of the commissioner.

(b) The rules and regulations of the commissioner shall designate textbooks, manuals and other materials to be studied by applicants in preparation for examinations in each classification designated by the commissioner pursuant to this section. Such textbooks, manuals or other materials may consist of matter available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the commissioner and distributed to applicants upon request and payment of the reasonable cost thereof. If textbooks, manuals or other materials are so designated or prepared by the commissioner, all examination questions shall be prepared from the contents of such textbooks, manuals or other materials. Prior to the examination, the commissioner shall value each question to be asked therein and the sum of such values shall total 100. Each of the answers given shall correspondingly be valued proportionately to its correctness, and the sum of such values totaling 70 shall constitute a passing grade.

(c) The commissioner shall give, conduct and grade all examinations in a fair and impartial manner and without unfair discrimination as between individuals examined. The commissioner may contract with qualified educational testing institutions for preparation, analysis or grading of the written portion of the examinations.

(d) Within 15 days after the examination, the commissioner or testing institution shall inform the applicant and the appointing insurer, where applicable, as to whether the applicant has passed.

(e) His graded examination shall be available for review by the applicant for a period of not less than 90 days after the date of the examination.

§27-7-12. Same -- Same -- Renewal or continuation.

In every case where he has probable cause to find and does find that the applicant for renewal or continuation of a license does not possess the necessary qualifications of education, training and experience where prescribed by this

chapter or reasonably required for the lawful discharge of his responsibilities under the license, the commissioner shall require the applicant to take and pass a written examination as a condition precedent to the renewal of the license.

§27-7-13. Same -- Same -- Exemptions; exception.

(a) Except as provided in section 27-7-12, an agent, broker or solicitor lawfully licensed as such immediately prior to January 1, 1972, shall not be required to take an examination as to any kind of insurance or classification thereof as to which he is so licensed. This section does not apply to agents, solicitors or brokers who presently hold a temporary license, pending written examination.

(b) Except as provided in section 27-7-12 and in subsection (c) of this section, an agent, broker or solicitor lawfully licensed as such immediately prior to January 1, 1989, shall not be required to take an examination as to any kind of insurance or classification thereof to which this chapter applies.

(c) Subsection (b) of this section does not apply to:

(1) Agents, solicitors or brokers who presently hold a temporary license, pending written examination; or

(2) Agents, solicitors or brokers who presently hold licenses only for:

a. automobile physical damage insurance;

b. industrial fire (commonly known as debit fire) insurance; or

c. physical damage coverage on household goods.

(d) If, after January 1, 1972, with respect to subsection (a) of this section, and after January 1, 1989, with respect to subsection (b) of this section, any such license is permitted to expire, or is otherwise terminated, and remains out of effect for a period of 24 consecutive months, the exemption from examination provided for in subsections (a) and (b), respectively, of this section shall no longer be applicable.

§27-7-14. Same -- Same -- Consultations with experienced persons.

The commissioner shall, from time to time as an aid to the efficient administration of this chapter, consult with individuals experienced in the property, casualty and miscellaneous casualty insurance business, to include officers, employees, managing general agents, managers and licensed agents of insurers engaged in such business, to the end that an orderly and effective program be developed as to scope, type and conduct of written examinations and the times and places in the state when and where they shall be held.

§27-7-15. Same -- Issuance or refusal.

(a) Within 10 days after receipt of the applicant's answers to examination questions, after examination for license as provided in this chapter, or within 10 days after completion of the application for license in the case of an applicant for

license as managing general agent or service representative, the commissioner, if the applicant has passed any examination required and is otherwise qualified for the license pursuant to this chapter, shall notify the applicant that he is eligible for a license. Upon payment of the license issuance fee provided by subsection (a) of section 27-4-2, the filing, if for an agent's license, of an appointment of the agent by an insurer as provided in section 27-7-30, and payment of the appointment fee prescribed in paragraph (a) (5) a of section 27-4-2, the commissioner shall issue the license to which the applicant is so entitled.

(b) If the commissioner finds that the applicant is not entitled to receive any license applied for, he shall within 10 days after receiving the applicant's examination questions and answers, or within 10 days after completion of the application for license in the case of an applicant for license as managing general agent or service representative, give the applicant written notice that the license is refused, stating the grounds for refusal.

§27-7-16. Same -- Reapplication or reexamination upon denial; fees therefor. Repealed by Acts 1991, No. 91-483, §3, effective July 29, 1991.

§27-7-17. Same -- Contents.

(a) The license of a managing general agent or service representative shall state the name and address of the licensee, the name of the insurer to be so represented, date of issue and of expiration and the general conditions of the license. The licensee must have a separate and additional appointment as to each insurer so represented.

(b) The single license of an agent shall state the name and address of the licensee, date of issue, general conditions relative to expiration or termination, the kinds of insurance or classifications thereof covered by the license, as classified under subsection (a) of section 27-7-11, and the general conditions of the license.

(c) The license of a broker shall state the licensee's name and address, the kinds of insurance or classifications thereof covered by the license, as classified under subsection (a) of section 27-7-11, date of issuance, conditions relative to expiration or termination and the general conditions of the license.

(d) The license of a solicitor shall state the licensee's name and address, the name and address of the agent or broker by whom he is appointed, the kinds of insurance or classifications thereof covered by the license, as classified under subsection (a) of section 27-7-11, conditions relative to expiration or termination and the general conditions of the license.

§27-7-18. Same -- Continuation and expiration; exception.

(a) All agent appointments, broker, solicitor, managing general agent and service representative licenses issued under this chapter shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the commissioner annually on or before December 31, of the applicable continuation fee, as stated in section 27-4-2, accompanied by written request for such continuation. Request for continuation shall be made as follows:

- (1) As to broker's license, request for continuation signed by the licensee;
 - (2) As to solicitor's license, request for continuation signed by the appointing agent or broker;
 - (3) As to managing general agent's license, request signed by the insurer to be so represented;
 - (4) As to service representative's license, request signed by the insurer or managing general agent to be so represented; and
 - (5) As to agent's appointments, request signed by the insurer to be represented.
- (b) Any license as to which the request for continuation and fee is not received by the commissioner as required under subsection (a) of this section shall be deemed to have expired at midnight December 31, above mentioned. Request for continuation of any such license or payment of the continuation fee therefor which is received by the commissioner after such December 31, and prior to the next following February 15, may be accepted and effectuated by the commissioner, in his discretion, if accompanied by an annual continuation fee in twice the amount otherwise required.

(c) The license of an agent shall be continuous until suspended or revoked; provided, however, the license shall expire automatically if the agent fails to hold a company appointment for a period of 24 consecutive months.

(d) This section does not apply to temporary licenses issued under sections 27-7-23 through 27-7-25.

§27-7-19. Same – Grounds for refusing to renew or to suspend or revoke.

(a) The commissioner may refuse to renew or continue or may suspend or revoke the license of any licensee under this chapter upon any of the following grounds:

(1) For any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner;

(2) For the willful misrepresentation of any material fact in any application or in any communication to the commissioner;

(3) For intentional, material, misrepresentation with respect to any insurance policy;

(4) For rebating;

(5) For inducing, persuading or advising any policyholder to surrender or cause to be cancelled any policy of insurance issued to such policyholder by any authorized insurer in exchange for a policy offered by the licensee where such surrender or cancellation shall proximately result to the financial detriment of such policyholder, unless such policyholder shall have been fully advised of that fact by such licensee;

(6) For fraudulent or dishonest practices in the conduct of business under a license;

(7) For being in default, for a period of 60 days or more, in remitting to any insurer premiums collected by such applicant or licensee, after receiving demand, accompanied by proof and justification, from such insurer;

(8) For the misappropriation, conversion or unlawful withholding of any moneys belonging to the insurers, insureds or others received by the licensee in the exercise of his license;

(9) For wilful failure to comply with, or wilful violation of, any valid order, rule or regulation issued by the commissioner; or

(10) For wilful violation of any provision of this title.

(b) The license of a partnership or corporation may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and such violation was not reported timely to the insurance department nor corrective action taken in relation thereto.

§27-7-20. Same – Proceedings to suspend or revoke.

The commissioner shall institute a proceeding to suspend or revoke a license by filing and serving a complaint as to the licensee, giving notice thereof to all interested parties the licensee is licensed or appointed to represent, and otherwise proceeding as provided in section 27-7-37. The commissioner is not required to swear to such a complaint.

§27-7-21. Same – Notice of refusal to renew or of suspension or revocation.

Upon refusal to renew or upon suspension or revocation of any license, the commissioner shall forthwith give written notice thereof to the licensee and all persons and insurers represented by the licensee and of record in the commissioner's office. The notice shall state the grounds for the commissioner's action. If a proceeding as provided for in section 27-7-37 has not already been had as to such action, upon written demand of any interested party feeling aggrieved and filed with the commissioner within 10 days after the above notice, the commissioner shall institute a complaint against the licensee under section 27-7-37 within 10 days after receipt of the demand.

§27-7-22. Same – Return for cancellation; affidavit in lieu thereof.

(a) All licenses issued under this chapter, though issued to a licensee, at all times are the property of the state of Alabama, and upon notice of any suspension, revocation, refusal to renew, expiration or other termination of the license, the licensee, or other person having possession or custody thereof, shall promptly deliver the license to the commissioner for cancellation.

(b) As to any license lost, stolen or destroyed while in the possession of any such licensee or person, the commissioner may accept in lieu of return of the license the affidavit of the licensee or other person responsible for, or involved in, the safekeeping of, such license concerning the facts of such loss, theft or destruction.

§27-7-23. Temporary license -- Generally.

(a) The commissioner may, in his discretion, issue a temporary license as agent or broker to a licensed agent's or broker's employee, family member, associate or personal representative or to the salaried employee of an insurer of which the agent was the sole licensed agent in Alabama, all subject to the following conditions:

(1) The agent or broker must have become deceased or unable to perform his duties as agent or broker because of military service, illness or other physical or mental disability;

(2) There must be no other person connected with the agent's or broker's business who is a licensed agent or broker and willing to act for the agent or broker;

(3) The proposed temporary licensee must be qualified as for an agent's or broker's license under this chapter, except as to residence, examination, education, training, experience and knowledge of insurance;

(4) Application for the temporary license must be made by the applicant by statement and affidavit filed with the commissioner on forms as prescribed and furnished by him;

(5) The temporary license shall be valid for a period of not over six months and, except as to one renewal in the case of disabling or confining illness or injury of the agent or broker, shall not be renewed either to the then holder of the temporary license or to any other person for, or on behalf of, the agent, agency or broker;

(6) As to a temporary license as agent issued on account of the death or disability of an agent, the licensee may so represent all of the insurers last represented by such deceased or disabled agent and without the making of new appointment of such licensee by such insurers; but the licensee shall not be appointed as to any additional kind or classification of insurance under a temporary license. This subdivision shall not be deemed to prohibit termination of its appointment by any insurer; and

(7) The holder of a temporary license may be granted a regular agent's or broker's license upon taking and passing an examination as required under this chapter, if then otherwise qualified for such a regular license.

(b) If the temporary licensee becomes entitled to receive a regular license prior to expiration of the temporary license, he shall surrender the temporary license to the commissioner at the time the regular license is issued.

(c) The applicant for a temporary license shall pay to the commissioner, prior to the issuance thereof, the applicable license fee as specified in section 27-4-2.

§27-7-24. Same -- Pending examination of agent.

(a) The commissioner may, in his discretion, issue a temporary license as agent to an applicant for a regular agent's license who is qualified for such regular license except as to having taken and passed a written examination therefor, if the applicant is actively engaged in a course of study, instruction and field training approved by the commissioner and under the supervision of the insurer. The insurer shall be responsible for all acts and omissions of the licensee under the temporary license and within the scope of his employment or appointment.

(b) The temporary license shall be valid for six months, within which period the licensee shall submit to a written examination for a regular agent's license and for such further time until the commissioner has notified the applicant of the result of the examination.

(c) Subsections (a) and (b) of section 27-10-1 also shall apply as to such temporary licenses.

§27-7-25. Same -- Agent properly licensed in another state.

(a) The commissioner may, in his discretion, issue a temporary license as agent to a resident of Alabama who was properly licensed as a resident agent or broker in another state under the laws of such state for the 12 consecutive months immediately prior to becoming a resident of Alabama, subject to the following conditions:

(1) The applicant must apply for the temporary license within 30 days after becoming a resident of Alabama;

(2) The applicant must take and pass a written examination covering the kinds of insurance or classifications thereof proposed to be transacted and be qualified as for a regular license as agent in all respects except as to the period of residence in Alabama;

(3) The state from which the applicant moved to Alabama must accord like privileges to former Alabama residents who move into that state;

(4) The insurance commissioner or other state official having supervision of insurance of such other state must certify, in writing filed with the commissioner, that the applicant had been a licensed resident agent or broker of such state during the period specified in subdivision (1) of this subsection; and

(5) The license shall be valid for a period of not more than six months.

(b) Subsections (b) and (c) of section 27-7-23 shall apply also as to such temporary licenses.

§27-7-26. Licenses -- Apprentice solicitor.

Repealed by Acts 1988, No. 88-123, §2.

§27-7-27. Solicitors.

(a) The same individual shall not be appointed or licensed as a solicitor as to more than one agent or broker.

(b) The solicitor's license shall cover all the kinds of insurance and classifications thereof, other than life and disability insurance, for which the appointing agent or broker is licensed; except, that the solicitor's license shall also cover disability insurance where written by an insurer also represented by the agent as to property or casualty or surety insurance.

(c) A solicitor shall not concurrently be licensed as broker nor as an agent except as to life or disability insurance.

(d) A solicitor shall not have authority to bind risks or countersign policies.

(e) The transactions of a solicitor under his license shall be in the name of the agent or broker by whom appointed, and the agent or broker shall be responsible for the acts or omissions of the solicitor within the scope of his appointment.

(f) The solicitor shall maintain his office with that of the appointing agent or broker, and records of his transactions under the license shall be maintained as part of the records of such agent or broker.

(g) The solicitor's license shall remain in the custody of the appointing agent or broker. Upon termination of the appointment, the agent or broker shall give written notice thereof to the commissioner and deliver the license to the commissioner for cancellation.

§27-7-28. Nonresident agents or brokers -- License; commissions.

(a) The commissioner may, upon written application made to him and payment of the license fee required under section 27-4-2, issue a license as a nonresident agent or nonresident broker to an individual otherwise qualified therefor under this chapter, but who is not a resident of this state, if by the laws of the state of his residence like licenses are granted to residents of this state.

(b) Any such licensing is also subject to the following conditions:

(1) The applicant must hold a license as an agent or broker in the state of his residence;

(2) The applicant or licensee must not have any direct or indirect pecuniary interest in any agent, insurance agency, broker or solicitor licensed as a resident of this state nor shall he establish or maintain any kind of office or place of business in this state; and

(3) The licensee must not enter this state for the purpose of inspecting any risk or property without the written advance permission of the insured or that of a countersigning Alabama agent on such risk, nor shall the licensee directly or

indirectly in this state solicit, negotiate or effect insurance policies unless accompanied by a resident agent of Alabama who is the countersigning agent on any insurance policy or policies so solicited, negotiated or effectuated. This provision shall not be deemed to apply to a service representative as defined in section 27-7-1.

(c) A countersigning resident agent cooperating with a nonresident agent or broker may share commissions as agreed between the two parties, if any commissions be paid, by the insurer.

§27-7-29. Same -- Service of process.

(a) Each licensed nonresident agent and broker shall appoint the commissioner as his attorney to receive service of legal process issued against such agent or broker in this state upon causes of action arising within this state out of transactions under the nonresident agent's or broker's license. Service upon the commissioner as such attorney shall constitute effective legal service upon the nonresident agent or broker.

(b) The appointment shall be irrevocable for as long as there may be any such cause of action in this state against the nonresident agent or broker.

(c) Service of process under this section shall be made by leaving three copies of the summons and complaint, or other process, with the commissioner, and such service shall be sufficient service upon such nonresident if notice of the service and a copy of the summons and complaint or other process are forthwith sent by registered or certified mail to the defendant by the commissioner; and the defendant's return and the certificate of the commissioner certifying compliance herewith shall be filed in the office of the clerk of court, or in the court or tribunal wherein the action is pending. The certificate of the commissioner shall show the date of the mailing by registered or certified mail of the notice of the service and copy of the summons and complaint, or other process, to the nonresident defendant and the date of the receipt of the return card and shall be signed by the commissioner. The commissioner may give the nonresident defendant notice of such service upon him, in lieu of the notice of service hereinabove provided to be given by registered or certified mail, in the following manner:

(1) By having a notice of such service and a copy of the summons and complaint, or other process, served upon the nonresident defendant, if found within the state of Alabama, by any officer duly qualified to serve legal process within the state of Alabama or, if the nonresident defendant is found to be outside the state of Alabama, by a sheriff, deputy sheriff or United States marshal or deputy United States marshal or any duly constituted officer qualified to serve like process in the state or the jurisdiction where the nonresident defendant is found; and

(2) The officer's return showing such service, when made, shall be filed in the office of the clerk of the court, or in the court or tribunal wherein the action is pending, on or before the return day of the process or within such further times as the court or tribunal may allow, and the court or tribunal in which the action is pending may order such continuance, or continuances, as may be necessary to afford the nonresident defendant reasonable opportunity to defend the action.

(d) The commissioner shall keep on file in his office for a period of not less than three years a copy of the summons and complaint or other process so served upon him, together with a record of all such process and of the day, hour and manner of service.

§27-7-30. Filing of agent's appointment by insurer with commissioner of insurance; termination of such appointment; notice to agent of appointment or renewal.

(a) Each insurer appointing an agent in this state shall file with the commissioner the appointment, specifying the kinds of insurance or classifications thereof as specified in section 27-7-11 to be transacted by the agent for the insurer, and pay the appointment fee as specified in section 27-4-2. If the insurer also transacts disability insurance, the agent may be appointed by the same insurer also as to disability insurance without requiring an additional appointment or appointment fee.

(b) Subject to annual continuation by the insurer not later than December 31, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless written notice of earlier termination of the appointment is filed with the commissioner by the insurer or agent.

(c) Annually, prior to December 31, each insurer shall file with the commissioner an alphabetical list of the names and addresses of all its agents whose appointments in this state are to remain in effect, accompanied by payment of the annual continuation of appointment fee as provided in section 27-4-2. At the same time, the insurer shall also file with the commissioner an alphabetical list of the names and addresses of all of its agents whose appointments in this state are not to remain in effect and shall give written notice thereof to all such agents where reasonably possible. Any appointment not so continued and not otherwise expressly terminated shall be deemed to have expired at midnight on December 31.

(d) Subject to the agent's contract rights, if any, an insurer may terminate an agent's appointment at any time. The insurer shall promptly give written notice of such termination to the commissioner and to the agent where reasonably possible. The commissioner may require of the insurer reasonable proof that the insurer has given such notice to the agent, whether upon termination of the appointment by affirmative action of the insurer or by failure of the insurer to continue the appointment as provided for in subsection (c) of this section.

(e) As part of the notice of termination given the commissioner and in connection with the insurer's list of agent's appointments not to be continued as provided for in subsection (c) of this section, the insurer shall file with the commissioner a statement of the facts relative to the termination or noncontinuance and the cause thereof. Any such information, or statement and information or statements supplemental thereto shall be privileged and shall not form the basis of, or be admitted as evidence in, any action or proceeding against the insurer, or any director, officer, employee or representative of the insurer by, or on behalf of, any person affected by such termination.

(f) Each insurer shall give its agent timely written notice of all appointments and renewal of appointments.

§27-7-31. Rights of agent following termination of appointment; exception.

(a) Following termination of an agent's appointment as to an insurer, the agent may continue to service and receive from the insurer commissions or other compensation relative to policies written by him for the insurer during the existence of the appointment. The agent may countersign all certificates or endorsements necessary to continue such policies, including renewal option periods, and collect and remit premiums due thereon, but shall not otherwise change or modify any such policy in any way nor increase the hazards insured against therein; except, that the limited authority hereinabove provided for shall terminate altogether upon expiration or termination of the agent's license.

(b) This section does not apply as to agents of direct writing insurers or to agents and insurers between whom the relationship of employer and employee exists.

§27-7-32. Place of business; display of license.

(a) Every managing general agent, resident agent and broker shall have and maintain in this state a place of business accessible to the public. The place of business shall be that wherein the licensee principally conducts transactions under his license. The address of such place shall appear upon the license, and the licensee shall promptly notify the commissioner of any change thereof. Nothing in this section shall be deemed to prohibit maintenance of such a place of business in the licensee's place of residence in this state.

(b) The licenses of the licensee and the licenses of solicitors appointed by and representing the licensee shall be conspicuously displayed by the licensee in his place of business in a part thereof customarily open to the public.

§27-7-33. Records.

(a) The agent or broker shall keep for a period of not less than 3 years at his place of business complete records pertaining to transactions under his license and the licenses of his solicitors. If an agent, the licensee shall make and keep daily reports of all policies countersigned by him.

(b) The agent's records referred to in subsection (a) of this section shall include also record of all policies executed or countersigned by him and representing coverages handled by a nonresident agent or nonresident broker. Upon the commissioner's request, the agent shall furnish a verified copy of such record to the commissioner to aid him in the collection of all privilege taxes due in this state.

(c) The licensee shall exhibit to an insured, at any reasonable time during business hours, records in his office pertaining to policies of the insured upon the insured's demand.

§27-7-35. Division or sharing of commissions by licensees.

(a) No licensee shall divide with others or share in any commissions payable on account of the exercise of a license under this title except as follows:

(1) An agent may divide or share in the commissions with his own solicitors and with other resident agents or solicitors licensed as to the same kinds of insurance or classifications thereof; and

(2) An agent, broker or solicitor and a nonresident agent or broker, subject to the provisions of section 27-7-28, may divide between themselves commissions as to a kind of insurance or classification thereof as to which both are licensed.

(b) Violation of this section shall be punishable as provided in subsection (b) of section 27-7-34.

§27-7-36. Accounting for and payment of trust funds by licensees.

(a) All premiums, return premiums or other funds belonging to others received by an agent, broker or solicitor in transactions under his license shall be trust funds so received by the licensee in a fiduciary capacity, and the licensee in the applicable regular course of business shall account for and pay the same to the insurer, insured, agent, broker or other person entitled thereto.

(b) Any agent, broker or solicitor who, not being lawfully entitled thereto, diverts or appropriates such funds, or any portion thereof, to his own use shall, upon conviction, be guilty of embezzlement and shall be punished as provided by law as if he had stolen such funds.

§27-7-37. Complaints against licensees; notice, hearing and orders thereon.

(a) Any person having an interest and feeling aggrieved may file a complaint with the commissioner against any licensed agent, solicitor, broker, managing general agent or service representative for the purpose of revocation or suspension of his license. The complaint shall be in writing and shall specify in reasonable detail the charge or charges made, the truth of which shall be sworn to by the complainant or some other person who has knowledge of the facts averred.

(b) If, upon reviewing the complaint, the commissioner finds that the charges made therein constitute grounds for the revocation or suspension of the license under section 27-7-19, he shall forthwith notify the licensee against whom the complaint has been made and serve him with a copy of the complaint. Service of the notice and copy of the complaint made shall be sent by registered or certified mail, addressed to the licensee at the address shown by the records of the commissioner, return receipt requested and marked "deliver addressee only."

(c) Within 30 days after service upon the licensee of the copy of the complaint made against him, the licensee shall file with the commissioner his answer in writing to the charges, either specifically admitting or denying or specifically confessing and avoiding each of the charges made. If the licensee against whom the complaint has been made stands in default for answer, the charges set forth in the complaint shall be taken as admitted.

(d) After receipt of the licensee's answer, the commissioner shall fix a time and place for the hearing of the complaint at his office or elsewhere as provided in section 27-2-30 and shall serve notice thereof upon the licensee and the complainant by registered or certified mail as provided in subsection (b) of this section with respect to service of the complaint upon the licensee; such notice shall be served at least 20 days before the date fixed for the hearing.

(e) At the time fixed by the commissioner for the hearing, the complaint shall be heard before the commissioner or a deputy appointed by him, and the complainant and licensee may each be represented by an attorney-at-law and may give the testimony and offer proof, documentary or ore tenus, as to the truth of the charges and any denial thereof.

(f) The commissioner shall have any power of subpoena, subpoena duces tecum or discovery obtaining in the circuit courts of this state, and any party shall have the right, upon request in writing filed with the commissioner, to cause a writ of subpoena to issue out of the office of the commissioner which shall be signed by him or his deputy and directed to the sheriff of any county of this state returnable to the office of the commissioner. The cost of issuing and serving subpoenas and witness fees shall be the same as such costs and fees in the circuit court and shall be recoverable by the prevailing party from the other party. The commissioner shall tax such costs, and, upon the same not being paid within a period of 10 days therefrom, payment thereof may be enforced in any court having jurisdiction over the person of the defaulting party.

(g) The testimony may be taken orally or by deposition, and any party shall have the right of introducing proof by deposition as may obtain in the circuit courts of this state.

(h) The commissioner or his deputy shall preside over the hearing and shall make a written finding of facts upon which his decisions shall be based.

(i) The commissioner shall, within 30 days after the conclusion of the hearing, make a ruling in writing fully disposing of the complaint and a copy of the ruling shall be served upon the complainant, the licensee and all interested parties represented by the licensee, by registered or certified mail, addressed to the licensee at the address shown by the records of the commissioner.

(j) Pursuant to such hearing, if the commissioner finds that the grounds therefor exist under section 27-7-19, he may suspend or revoke the licenses of the licensee complained against.

§27-7-38. Privileged information.

(a) Any communications, complaint, evidence, testimony, document, deposition, affidavit, statement or other proof filed, given or proffered at the hearing provided for in section 27-7-37 shall be absolutely privileged to the same extent as in a court of law and shall never form the subject matter of any action, claim or proceeding against the person filing, giving or proffering the same nor against the principal or representative of such person.

(b) Reports of investigation, copies thereof and information furnished the commissioner by any insurer, agent, solicitor, broker, managing general agent or service representative and any other person shall be absolutely privileged communications, and no such report, copy, information or document, affidavit, statement, deposition or testimony so furnished to the commissioner shall ever form the subject matter of any action, claim or proceeding against any such person.

§27-8-1. "Agent" and "broker" defined; qualifications of applicants for broker's license; filing fee and annual fee for broker's license.

(a) An agent is a natural person, partnership or corporation appointed and authorized by an insurer to solicit applications or to negotiate for insurance or annuity contracts and to deliver policies or contracts on its behalf and, if authorized to do so by the insurer, to collect premiums in connection therewith.

(b) The term "agent" does not include any of the following:

(1) Any regular salaried officer or employee of an insurer or agent who does not solicit or accept from the public applications for any such insurance or contracts;

(2) A ticket-selling agent of a common carrier who sells accident insurance tickets to individuals;

(3) Any regular salaried officer or employee of an insurer who renders assistance to, or on behalf of, a licensed agent of the insurer, if such officer or employee devotes substantially all of his time to activities other than the solicitation of applications for insurance or annuity contracts and receives no commission or other compensation directly dependent upon the amount of business obtained; or

(4) Persons who secure and furnish information for the purpose of group life insurance, group or blanket health insurance or annuity coverages or for enrolling individuals under such plans or issuing certificates thereunder or otherwise assisting in administering such plans where no commission is paid for such services.

(c) An insurance broker is any individual, partnership or corporation who, for compensation, not being a licensed agent for the company in which a policy of insurance is placed, acts or aids in any manner in placing risks or effecting insurance for a party other than himself or itself. An individual, partnership or corporation not licensed as an insurance broker who solicits a policy of insurance to or on behalf of others or transmits for others an application for a policy of insurance to or from an insurance company or offers or assumes to act in the negotiations of such insurance shall be an insurance broker within the intent of this chapter, and shall thereby become liable for all the duties, requirements, liabilities and penalties to which such licensed brokers are subject.

(d) Each applicant for an insurance broker's license must have had not less than two years' experience as an insurance agent or in comparable employment for an insurance company, agency or brokerage firm during the three years immediately next preceding the date of application.

(e) An applicant for a broker's license shall pay an annual fee of \$26.00 plus an initial filing fee of \$10.00.

§27-8-2. Applicability of chapter.

This chapter applies only as to agents, and other insurance representatives and to brokers as defined in this chapter with respect to life insurance and annuity contracts and to disability insurance where written by an insurer authorized to transact disability insurance only or authorized to transact also life insurance, whether operating on a stock, mutual, reciprocal, fraternal, hospital or medical service plan.

§27-8-3. License -- Requirements; forms.

(a) No person shall in this state be, act as, hold himself out as or claim to be, or act as, an agent or broker unless then licensed as an agent or broker under this chapter.

(b) The commissioner shall prescribe and furnish on request all forms required in connection with application for, issuance or termination of licenses.

§27-8-4. Same -- Qualifications of licensees; duties as to representation.

(a) For the protection of the people of this state, the commissioner shall not issue, continue or permit to exist any agent or broker license for and on behalf of any natural person unless such person is in compliance with this chapter as follows:

(1) Must be a citizen of the United States of America, or Canada or a permanent resident under United States immigration laws and a resident of this state except as to licenses issued to nonresidents under section 27-8-22;

(2) Must be trustworthy, of good moral character and not have been convicted of a felony or of any crime involving moral turpitude, unless fully pardoned with restoration of civil rights;

(3) Must have had sufficient education, experience and training to make him reasonably competent to fulfill the responsibilities of a licensed agent or broker;

(4) Must intend to, and commencing after issuance of the license shall during the existence of the license, actively engage as to the general public in the business permitted under the license;

(5) Must not use, or intend to use, the license principally for the purpose of procuring insurance on his own risks or interests or those of his relatives, to the second degree, or the officers, directors, stockholders, partners or employees of any partnership, association or corporation of which he or a member of his family is an officer, director, substantial stockholder, partner or employee;

(6) Must not use, or intend to use, the license principally for the purpose of procuring or assisting in the procurement of insurance on the lives of customers of a retail merchandise establishment or department store which does not maintain at

least one place of business in this state where the credit facilities of such retail merchandise establishment or department store are used by the customer for the payment of premiums on such insurance and where such establishment or store, or the owners, officers, directors or employees thereof, receive, directly or indirectly, any commission or other valuable consideration for the writing of such insurance or the collecting of premiums thereon from the agent, broker or the insurer. This subdivision shall not apply to credit life or credit disability insurance;

(7) Must pass any written examination for the license required under this chapter; and

(8) Must, if a partnership or corporation, be organized under the laws of this state and the transaction of the insurance business under the license must be within the purposes stated in the partnership's partnership agreement or the corporation's articles.

(b) Every agent who solicits an application for insurance of any kind shall, in any controversy between the insured or his beneficiary and the insurer, be regarded as representing the insurer and not the insured or his beneficiary.

(c) Every insurance broker who solicits an application for insurance of any kind shall, in any controversy between the insured or his beneficiary and the insurer issuing any policy upon such application, be regarded as representing the insured or his beneficiary and not the insurer; except, that any company which directly or through its agents delivers in this state to any insurance broker a policy of insurance pursuant to the application or request of such broker, acting for an insured other than himself, shall be deemed to have authorized such broker to receive on its behalf payment of any premium which is due on such policy of insurance at the time of its issuance or delivery.

§27-8-5. License -- Application; certificate of insurer; fees; bond.

(a) The commissioner shall not issue any license except upon application therefor as provided in this section. Each applicant for a license as an agent or broker shall file annually with the commissioner his written application therefor signed by him, verified by his oath and showing:

(1) Applicant's full name, residence, age, occupation and place of business for five years next preceding the date of the application;

(2) Whether applicant has ever held a license to solicit insurance contracts in any state;

(3) Whether applicant has ever been refused or has had suspended or revoked any license to solicit insurance contracts in any state;

(4) What insurance experience, if any, he has had;

(5) What instruction in insurance and in the insurance laws of this state he has had or expects to have;

(6) Whether any insurer claims that applicant is indebted to the insurer under any agency contracts or otherwise and, if so, the name of the claimant, nature of the claim and applicant's defense thereto;

(7) Whether applicant has had any agency contract cancelled and, if so, when, by what insurer and the reason for the cancellation;

(8) Whether applicant will devote all, or part of, his efforts to acting as an insurance agent and, if part time only, how much time he expects to devote to work as an agent or broker and in what other business, or businesses, he is engaged or employed;

(9) Whether, if applicant is married, the spouse has ever applied for or held a license to solicit insurance in any state and whether any such license has ever been refused, suspended or revoked; and

(10) Such other information as the commissioner may reasonably require.

Additional licenses shall require the applicant's full name, residence, age, place of business and certification whether he has had a license to solicit insurance contracts refused, suspended, or revoked since his last annual license; whether applicant has had any agency contract cancelled and, if so, when, by what insurer and the reason for the cancellation; and whether the applicant has been convicted of a felony since his last annual license.

(b) The application for an agent's license shall be accompanied by a certificate on forms furnished by the commissioner and signed by an officer or duly authorized representative of the insurer stating, if true, that the insurer has investigated the character and background of the applicant and is satisfied that he is trustworthy and qualified to act as its agent and to hold himself out in good faith to the general public as an agent and that the insurer desires that the applicant be licensed as an agent of the insurer as defined in subsection (a) of section 27-8-1.

(c) If the applicant for an agent's or broker's license is a partnership or corporation, the application shall show, in addition, names of every member of the partnership and every officer, director, stockholder and employee of the corporation personally engaged in this state in soliciting or negotiating policies of insurance. Each such member, officer, director, stockholder or employee shall furnish information with respect to himself as part of the application, as though for an individual license, and shall otherwise meet the requirements for an individual license.

(d) Partnerships and corporations shall file their organizational documents with the commissioner accompanied by an initial filing fee of \$50.00. The license shall continue in effect, subject to an annual fee of \$50.00, unless cancelled, suspended or revoked. Each partnership and corporation shall file with the commissioner any change in its organization accompanied by a fee in the amount of \$10.00.

(e) When filed, the application shall be accompanied by the examination filing fee specified in section 27-4-2 if the applicant is subject to an examination under this chapter. Any such fee shall not be subject to refund, whether or not the

applicant in fact takes an examination. An additional license fee shall be paid as to each individual included in the application for a partnership or corporation license.

(f) Prior to issuance of a license as an insurance broker, the applicant shall file with the commissioner and, thereafter for as long as the license remains in effect, shall keep in force a bond in the penal sum of not less than \$20,000.00 with an authorized corporate surety approved by the commissioner. The aggregate liability of the surety for any and all claims on any such bond shall in no event exceed the penal sum thereof. No such bond shall be terminated unless at least 30 days' prior written notice thereof is given by the surety to the licensee and the commissioner. Upon termination of the license for which the bond was in effect, the commissioner shall notify the surety within 10 working days.

(g) All surety protection under this section is to inure to the benefit of the aggrieved parties.

§27-8-6. Same -- Examination -- Requirement generally; educational prerequisite; exceptions.

(a) After completion of the educational requirements of subsection (c) of this section and filing of the application for license as required under section 27-8-5, each applicant for a license as agent or broker shall submit to a personal written examination to determine his competence to be an agent or broker and his familiarity with the pertinent provisions of the insurance laws of this state and shall pass the same to the satisfaction of the commissioner; except, that no such examination or initial educational requirements specified in subsection (c) of this section shall be required of:

(1) An applicant for renewal or continuation of a license, unless the commissioner determines that an examination is necessary to establish the competency of the applicant;

(2) An applicant whose license is limited to acting only as an agent with respect to life, health and accident insurance on borrowers or debtors, commonly known as credit life, health and accident insurance, if such applicant is a full-time employee of the institution granting the credit;

(3) An applicant whose license is limited to acting as an agent with respect to ticket travel accident policies;

(4) In the commissioner's discretion, an applicant whose license was suspended or otherwise terminated less than two years prior to the date of application;

(5) An applicant for a broker's license who holds a valid agent's license;

(6) An applicant for an agent's license who holds a valid broker's license; or

(7) An applicant holding the designation, Chartered Life Underwriter.

(b) If the applicant is a partnership or corporation, the examination shall be taken and initial educational requirements met by each individual who is to be

designated in the license as having authority to act for the applicant under the license.

(c) An applicant for an agent's license, prior to examination, shall be required to complete successfully 40 hours of classroom instruction or the equivalent thereof, in the broad principles of insurance, no fewer than five hours of which shall be on the licensing and regulatory laws of the state and the obligations and duties of an agent. Said instruction may be offered by a school, college, university or bona fide educational school or program operated by an insurance company or by an insurance association. The insurance commissioner shall with the advice of the agency advisory board approve and certify any such course as being acceptable for the purposes of this section.

§27-8-7. Same -- Same -- Rules and regulations; preparation and administration; contracts with testing institutions.

(a) The commission shall establish rules and regulations with respect to:

(1) The classification of applicants according to the type of insurance to be effected by them;

(2) The scope, type and conduct of written examinations; and

(3) The times and places within the state for the holding of such examinations. An applicant shall be permitted to take an examination once in each two weeks in the principal office of the commissioner, and an examination shall be held at least as often as once in each three months in each congressional district.

(b) Such rules and regulations shall classify applicant for purposes of this section as follows:

(1) Those desiring to write life insurance;

(2) Those desiring to write disability insurance;

(3) Those desiring to write any combination of the above classifications; and

(4) Such other classifications as, in the opinion of the commissioner, are necessary or appropriate.

(c) Examination shall be prepared and given in those subjects only which pertain to the classification, or classifications, which apply to the applicant, and no applicant shall be required to take an examination on a subject, or subjects, pertaining to any other classification. Prior to the examination, the commissioner shall value each question to be asked therein, and the sum of such values shall total 100. Each of the answers given shall correspondingly be valued proportionately to its correctness, and the sum of such values totaling 70 shall constitute a passing grade. An applicant shall have the right to be examined as to all of such classifications in the same examination and shall be required to pay but one examination application filing fee therefor.

(d) The commissioner shall not contract with any qualified educational testing institutions for preparation, analysis or grading of the written portions of the examination.

§27-8-8. Same -- Same -- Textbooks, manuals and other materials.

The rules and regulations of the commissioner shall designate textbooks, manuals and other materials to be studied by applicants in preparation for examinations in each classification designated by the commissioner pursuant to section 27-8-7. Such textbooks, manuals or other materials may consist of matter available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the commissioner and distributed to applicants upon request and payment of the reasonable cost thereof. If textbooks, manuals or other materials are so designated or prepared by the commissioner, all examination questions shall be prepared from the contents of such textbooks, manuals or other materials.

§27-8-9. Repealed by Acts 1981, No. 81-862, p. 1635, §1, effective October 1, 1981.

§27-8-10. Same -- Examination -- Reexamination; fee.

No person who has taken and failed to pass two examinations given pursuant to section 27-8-7 shall be entitled to take any further examination until after the expiration of three months from the date of the last examination in which he failed to pass. If such person thereafter fails to pass two more such examinations, he shall not be eligible to take any further examination until after the expiration of six months from the date of his last unsuccessful examination. An examination fee shall be paid for each and every examination; except, that an applicant shall be permitted to take a single examination covering all classes of insurance contracts as defined in section 27-8-7.

§27-8-11. Same -- Same -- Agency advisory board.

The commissioner may appoint an agency advisory board, as an aid to the efficient administration of this chapter, to consult with individuals experienced in the life and disability insurance business, to include officers, employees, managers, and licensed agents of insurers engaged in such business and brokers, to the end that an orderly and effective program be developed as to scope, type and conduct of written examinations, as to the acceptability of courses of instruction under subsection (c) of section 27-8-6 and the times and places in the state where the examinations shall be held.

§27-8-12. Same -- Issuance or refusal.

(a) If the commissioner finds, after the successful completion of the initial educational requirement, the completion of the application therefor and successful passing of any examination required under this chapter, that the applicant is fully qualified and entitled thereto under this chapter, and upon payment of the license fee specified in section 27-4-2, the commissioner shall promptly issue to the applicant the license to which he is so entitled.

(b) If the commissioner finds that the applicant is not qualified for, or entitled to, the license under the provisions of this chapter or that he failed to complete the initial educational requirement or to pass any examination required of him, he shall promptly give written notice to the applicant and, if applicable, the insurer by whom the applicant was sponsored that the license is refused, stating the reasons therefor.

§27-8-13. Same -- Content; number of licenses generally.

(a) Licenses shall state the name and address of the licensee, the kinds of insurance or classifications thereof covered by the license, date of issue and of expiration and the general conditions of the license.

(b) An agent with a license in force may solicit applications for policies of life and disability insurance on behalf of an insurer with respect to which he is not a licensed agent, provided that such agent submits an application for appointment as an agent of such insurer simultaneously with the submission to such insurer of the application for insurance solicited by him, and, provided further, that no commissions shall be paid by such insurer to the agent until such time as an additional license with respect to such insurer has been issued to the agent.

(c) The commissioner may, upon request, issue a single license covering all of the kinds of insurance and classifications thereof transacted by the same insurer.

§27-8-14. Same -- Issuance of additional licenses.

The commissioner may issue additional licenses to any agent when requested by an official or duly authorized representative of an insurer. Any such additional license shall be limited to the class, or classes, for which the agent holds a license.

§27-8-15. Same -- Continuation and expiration; filing of annual statements and fees.

(a) All licenses issued under this chapter, other than temporary licenses issued under section 27-8-21, shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the commissioner annually by the insurer, on or before December 31, of the applicable continuation fee, as stated in section 27-4-2 or subsection (d) of section 28-8-5 [27-8-5] and, with respect to an agent's license, accompanied by the insurer's written request and payment of the fee for such continuation.

(b) Any license as to which the request for continuation and fee is not received by the commissioner as required under subsection (a) of this section, shall be deemed to have expired at midnight on December 31, mentioned in subsection (a) of this section. Request for continuation of any such license or payment of the continuation fee therefor which is received by the commissioner after such December 31, and prior to the next following February 15, may be accepted and effectuated by the commissioner, in his discretion, if accompanied by a continuation fee in twice the amount otherwise required.

(c) Annually, prior to December 31, each insurer shall file with the commissioner an alphabetical list of the names and addresses of all its agents whose licenses in this state are to continue in effect, accompanied by payment of the annual continuation fee referred to in subsection (a) of this section. At the same time, the insurer shall also file with the commissioner an alphabetical list of the names and addresses of all its agents whose licenses in this state are not to remain in effect and shall give written notice thereof to all such agents where reasonably possible.

(d) If so requested by the commissioner, the insurer shall, as to each agent whose license is to be continued as provided in this section, file with the commissioner a statement, upon forms prescribed and furnished by the commissioner, showing whether the agent devotes all or part of his efforts to his work as agent and, if part only, how much time he devotes to such work and in what other business, or businesses, he is engaged or employed.

§27-8-16. Same -- Refusal to renew or continue or suspension or revocation -- Grounds.

(a) The commissioner may, after notice and hearing as provided in section 27-8-17, refuse to renew or continue or may suspend or revoke a license for any cause for which he could have refused to issue the license had such cause then existed and been known to the commissioner or if he finds that the licensee has:

(1) Willfully violated any provision of this title;

(2) Intentionally made a material misstatement in the application for license;

(3) Obtained or attempted to obtain the license by fraud or misrepresentation;

(4) Misappropriated or converted to his own use or illegally withheld money belonging to an insurer or an insured or beneficiary;

(5) Otherwise demonstrated lack of trustworthiness or competence to act as an agent or broker;

(6) Been guilty of fraudulent or dishonest practices;

(7) Materially misrepresented the terms or conditions of insurance policies or contracts;

(8) Made, issued or caused to be made or issued any statement misrepresenting or making incomplete comparisons regarding the terms or conditions of any insurance or annuity contract legally issued by any insurer for the purpose of inducing, or attempting to induce, the owner of such contract to forfeit, cancel or surrender such contract or allow it to lapse for the purpose of replacing such contract with another;

(9) Obtained such license not for the purpose of holding himself out to the general public as an agent or broker, but primarily for the purpose of soliciting, negotiating or procuring insurance or annuity contracts covering himself or

members of his family or others, in violation of subdivision (5) of subsection (a) of section 27-8-4;

(10) Obtained such license not for the purpose of holding himself out to the general public as an agent or broker, but primarily for the purpose of soliciting, negotiating or procuring insurance on the lives of customers of a retail merchandise establishment or department store which does not maintain at least one place of business in this state where the credit facilities of such retail merchandise establishment or department store are used by the customer for the payment of premiums on such insurance and where such establishment or store or the owners, officers, directors or employees thereof receive, directly or indirectly, any commission or other valuable consideration for the procuring of such insurance or the collecting of premiums thereon from the agent or broker or from the insurer; except, that this subdivision shall not apply to credit life or credit disability insurance; or

(11) Does not possess cash and accounts receivable for insurance premiums owing the licensee in an amount equal to, or in excess of, the accounts payable by the licensee for insurance premiums. Such accounts receivable shall not include insurance premiums owing the licensee more than 120 days after the last day of the month in which the insurance was effective.

(b) The license of a partnership or corporation may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and such violation was not reported timely to the insurance department nor corrective action taken in relation thereto.

§27-8-17. Same -- Same -- Proceedings; appeal of order.

(a) Before any license shall be suspended or revoked or the renewal thereof refused, the commissioner shall give notice of his intention so to do and the reasons therefor by registered or certified mail to the licensee and the insurer whom he represents. The licensee may make written demand upon the commissioner within 30 days for a hearing before the commissioner to determine the reasonableness of the commissioner's action. Upon such a request, the commissioner shall set a date not less than 30 days from the date of receipt of the written demand when the licensee and, if applicable, a duly authorized representative of the insurer may appear to be heard and produce evidence. Upon termination of such hearing, findings shall be reduced to writing and, upon approval by the commissioner, shall be filed in his office and notice of the findings sent by registered or certified mail to the licensee and the insurer concerned.

(b) Any party to such a hearing who is aggrieved by any order of the commissioner suspending, revoking or refusing to renew a license may appeal therefrom as provided in section 27-2-32.

§27-8-18. Same -- Same -- Privileged information.

All testimony, documents and other evidence required to be submitted to the commissioner in connection with any hearing held by him under section 27-8-17,

or investigation made by the commissioner in connection therewith, or any act or thing done by the insurer or any director, officer, employee or representative of the insurer in connection with any such testimony, documents and other evidence shall be absolutely privileged and shall not be admissible in evidence in any other proceeding.

§27-8-19. Same -- Return for cancellation; affidavit in lieu thereof.

(a) All licenses issued under this chapter, though issued to a licensee, at all times are the property of the state of Alabama, and, upon notice of any suspension, revocation, refusal to renew, expiration or other termination of the license, the licensee, or other person having possession or custody thereof, shall promptly deliver the license to the commissioner for cancellation.

(b) As to any license lost, stolen or destroyed while in the possession of any such licensee or person, the commissioner may accept in lieu of return of the license the affidavit of the licensee or other person responsible for, or involved in the safekeeping of, such license concerning the facts of such loss, theft or destruction.

§27-8-20. Same -- Relicensing after revocation.

No licensee whose license has been revoked shall be entitled to file another application for a license as an agent or broker within one year from the effective date of such revocation or, if judicial review of such revocation is sought, within one year from date of final court order or judgment affirming the revocation. Such application, when filed, may be refused by the commissioner unless the applicant shows good cause why the revocation of his license shall not be deemed a bar to the issuance of a new license.

§27-8-21. Temporary licenses.

(a) The commissioner, if satisfied that the applicant is otherwise qualified for a license under this chapter, shall issue a temporary license to an applicant for a license pending completion of the examination required under section 27-8-6. A temporary license shall not be effective for more than three months. The commissioner, in his discretion, may renew a temporary license issued under this section one time upon proper application and for good cause. A temporary license may be terminated for cause pursuant to the provisions of this chapter.

(b) The temporary license shall be issued immediately, upon receipt by the commissioner of an application executed by such person in the form required by section 27-8-5, together with the applicable license fee specified in section 27-4-2, and a certificate signed by an officer or properly authorized representative of the insurer stating, to the extent true:

(1) That the insurer has investigated the character and background of such person and is satisfied that he is trustworthy;

(2) That such person has been appointed, or is being considered for appointment by the insurer, as a full-time agent; and

(3) That the insurer desires that such person be issued a temporary license.

(c) The commissioner shall refuse to issue such license to applicants of any insurer where more than 25 percent of the applicants for a license for such insurer have repeatedly and without good cause failed to appear for the required examination during the preceding 12-month period.

(d) If a temporary license is not received from the commissioner within 10 days from the date on which the application and certificate were delivered to or placed in the United States mail properly addressed to the attention of the commissioner, the insurer may assume that the temporary license will be issued in due course and may continue such person in its employment until notified by the commissioner to the contrary.

(e) A temporary license shall be granted only to an applicant who intends to engage exclusively as an agent.

§27-8-22. Nonresident agents.

(a) The commissioner may issue a license as agent to an individual who is otherwise qualified for such license under this chapter, but is not a resident of this state, if the state in which such person resides accords the same privilege to residents of this state.

(b) The commissioner has authority to enter into reciprocal agreements with the appropriate official of any other state waiving the initial educational requirements or the written examination of any applicant resident in such other state if:

(1) A comparable initial educational requirement or written examination is required of applicants for an agent's license in such other state;

(2) The appropriate official of such other state certifies that the applicant holds a currently valid license as an agent in such other state and has passed a written examination or met the initial educational requirements or both or was the holder of an agent's license prior to the time a written examination was required; and

(3) In such other state, a resident of this state is privileged to procure an agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state.

(c) No such applicant or licensee shall have a place of business within this state for the transaction of business as such an agent.

(d) If under the laws of the other state requirements as to countersignature, division of commissions, solicitation with a resident agent or as to other matter, other than amount of license fee, are imposed upon residents of this state transacting business as insurance agents in such state, then the commissioner shall impose similar requirements as to residents of such state soliciting business as nonresident agents in this state.

(e) Section 27-7-29, relative to service of process, shall apply also to nonresident agents licensed under this section.

(f) For the purposes of this section, the word "state" shall be construed as including any province of Canada.

§27-8-23. Use of vending machines and credit facilities.

(a) A licensed resident agent may solicit applications for and issue policies of personal travel accident insurance by means of mechanical vending machines supervised by him and placed at airports, railroad stations, bus stations and similar places where transportation tickets are sold and of convenience to the traveling public if the commissioner finds:

(1) That the policy to be so sold provides reasonable coverage and benefits, is reasonably suited for sale and issuance through vending machines and that use of such a machine therefor in a particular proposed location would be of material convenience to the public;

(2) That the type of vending machine proposed to be used is reasonably suitable and practical for the purpose;

(3) That reasonable means are provided for informing the prospective purchaser of any such policy of the coverage and restrictions of the policy; and

(4) That reasonable means are provided for refund to the applicant or prospective applicant of money inserted in defective machines and for which no insurance or a less amount than paid for is actually received.

(b) As to each machine to be so used, the commissioner shall issue to the agent a special vending machine license. The license shall specify the name and address of the insurer and agent, the name of the policy to be so sold, the serial number of the machine and the place where the machine is to be in operation. The license shall be subject to annual continuation, to expiration, suspension or revocation coincidentally with that of the agent. The commissioner shall also revoke the license as to any machine as to which he finds that the conditions upon which the machine was licensed, as referred to in subsection (a) of this section, no longer exist. The license fee shall be as stated in section 27-4-2 for each license year, or part thereof, for each respective vending machine. Proof of the existence of a subsisting license shall be displayed on, or about, each such vending machine in use in such manner as the commissioner may reasonably require.

(c) No person shall knowingly solicit or negotiate any contract of insurance, except credit life insurance and credit disability insurance and accidental death benefit insurance, or seek or accept applications for insurance, issue or deliver any policy for any insurance company, or otherwise transact insurance in this state, or relative to a subject of insurance, resident, located or to be performed in this state, through the arrangement or facilities of a credit card facility or organization or through the credit facilities of a retail merchandise establishment or department store; provided, however, that nothing contained in this title shall prohibit an insurer authorized to do business in this state, the representative of such insurer or an insurance agent, agency or broker from soliciting, negotiating,

contracting or financing the sales of any such insurance, or the doing of any acts in relation thereto, as contemplated above where said solicitation is directed to the credit card holders or credit customers of any retail merchandise establishment or department store which maintains at least one business establishment in this state, provided, that the laws of this state requiring countersignature by a licensed agent resident in this state are complied with and said agent shall receive the applicable commission payable therefor.

§27-8-24. Termination of agency appointment by insurer.

(a) Subject to the agent's contract rights, if any, an insurer may terminate an agency appointment at any time. The insurer shall promptly give written notice of such termination to the commissioner and to the agent, where reasonably possible. The commissioner may require of the insurer reasonable proof that the insurer has given such notice to the agent, whether upon termination of the appointment by affirmative action of the insurer or by failure of the insurer to continue the appointment as provided for in subsection (c) of section 27-8-15.

(b) Upon receipt of the insurer's notice of termination of the agency appointment, the commissioner shall terminate the license of the agent to represent the insurer.

(c) Upon termination of the appointment of an agent, or as soon thereafter as possible, and immediately upon completion of the insurer's investigation, the insurer shall file with the commissioner a written statement of the facts relative to the termination and the date and cause thereof, including a statement of the amount of indebtedness due the insurer or general agent.

(d) Any information, document, record or statement filed with or disclosed to the commissioner pursuant to subsection (c) of this section, or any information, document, record or statement supplemental thereto, is an absolutely privileged communication; and they and any act or thing done by the insurer or any director, officer, employee or representative of the insurer in connection with preparing and filing such information, record, document or statement with the commissioner shall not constitute basis of any action against the insurer or any director, officer, employee or representative of the insurer or against any other person and shall not be admissible as evidence in any court action or proceeding.

§27-8-25. Placement of excess or rejected risk by unlicensed agent.

An agent may, from time to time, place, with an authorized insurer as to which he is not then a licensed agent, any portion of a risk which is in excess of the amount thereof acceptable to, or which has been rejected by, an insurer for which he is so licensed. The application for the insurance or annuity contract so placed must have been secured by the agent and must be within the kinds of insurance or classifications thereof for which the agent is licensed as to the insurer which so refused or rejected such business.

§27-8-26. Notice of change of business address or other changes.

(a) Every agent or broker shall promptly notify the commissioner in writing of any change of his principal business or residency address.

(b) A corporation or partnership licensee shall, within 10 working days, notify the commissioner of every change relative to the licensees associated with the corporation or partnership or of any change in the name of the corporation or of any change in the name or membership of the partnership.

§27-8-27. Payment of commission or other valuable consideration to unlicensed persons not allowed; exceptions.

(a) No insurer, agent or broker shall pay, directly or indirectly, any commission or other valuable consideration to any person for services as an agent or broker within this state unless such person holds a currently valid license as an agent or broker as to the kind or class of business involved as required by this chapter.

(b) Any insurer, agent or broker violating this section shall be liable for a fine in an amount of up to three times the amount of the commission paid. Such fine shall be levied and collected by the commissioner. Upon failure to pay such fine the commissioner may, in his discretion, revoke the license of the agent or broker, or the insurer's certificate of authority or both.

(c) The provisions of this section shall not prevent:

(1) Payment of renewal or other deferred commissions to any person solely because such person has ceased to hold a license to act as an agent or broker;

(2) Payment to the personal representative of a deceased agent or broker; and

(3) Payment of any commission or any other valuable consideration by an insurer, agent or broker to a person who has been appointed as its full-time agent and has applied for a temporary license pursuant to section 27-8-21, pending issuance of a permanent license.

(d) No insurer, agent or broker shall pay, directly or indirectly, any commission or other valuable consideration to any retail merchandise establishment or department store or to any of the owners, officers, directors or employees thereof for services in connection with procuring or assisting in the procurement of individual insurance on the lives of customers of such retail merchandise establishment or department store where the revolving credit facilities of such establishment or store are used by the customer for the payment of premiums on such insurance; except, that nothing contained in this title shall prohibit the payment of such commissions or other consideration where the contracting of said insurance and the financing thereof is not prohibited by the provisions of this title. This subsection shall not apply to credit life or credit disability insurance.

§27-8-28. Accounting for and payment of trust funds by licensees.

(a) All premiums, return premiums or other funds belonging to others received by an agent or broker in transactions under his license shall be trust funds so received by the licensee in a fiduciary capacity, and the licensee shall promptly account for and pay the same to the insurer, insured or other person entitled thereto.

(b) Any agent or broker who, not being lawfully entitled thereto, diverts or appropriates such funds, or any portion thereof, to his own use shall, upon conviction, be guilty of larceny by embezzlement and shall be punished as provided by law as if he had stolen such funds.

§27-9-1. "Adjuster" defined.

(a) An "adjuster" is a person who, for compensation as an independent contractor, or as the employee of such an independent contractor or for fee or commission, investigates and negotiates settlement of claims arising under insurance contracts on behalf of the insurer.

(b) The definition of adjuster shall not include, nor require, a license of the following:

- (1) A licensed attorney-at-law who is qualified to practice law in this state; or
- (2) A salaried employee of an insurer.

§27-9-2. License -- Requirement; application; issuance; fee; firms and corporations.

(a) No person shall in this state act as, or hold himself out to be, an adjuster unless then licensed therefor under this chapter. Application for license shall be made to the commissioner according to forms as prescribed and furnished by him.

(b) The commissioner shall promptly issue a license to each person who has properly completed application therefor and who is qualified for the license under this chapter.

(c) At time of application for the license, the applicant shall tender to the commissioner the license fee specified in section 27-4-2. If the license is refused, the commissioner shall refund the license fee to the applicant or person entitled thereto.

(d) Firms and corporations, as well as individuals, may be licensed as an adjuster. Each individual associated in such firm or corporation and who exercises, or proposes to exercise, license powers shall file application with the commissioner, pay the license fee and qualify as though for an individual license. The license issued to a firm or corporation shall list thereon all individuals who are thereby authorized to act as an adjuster or, in lieu thereof, the commissioner may issue a separate license as to each such individual.

(e) The license fee provided for in this section is payable to the state, as provided in section 27-4-2, and no license or fee shall be paid to the county.

§27-9-3. Same -- Qualifications.

To be licensed as an adjuster, the applicant must be qualified therefor as follows:

(1) Must be an individual 19 years of age or more;

(2) Must be a resident in and of Alabama or resident of another state which will permit residents of Alabama regularly to act as adjusters in such other state;

(3) Must be a full-time salaried employee of a licensed adjuster, or a graduate of a recognized law school or must have had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent reasonably to make him competent to fulfill the responsibilities of an adjuster; and

(4) Must be trustworthy and of good character.

§27-9-4. Same -- Authority to act as adjuster without license.

No such adjuster's license, or qualifications therefor, shall be required as to any adjuster who is sent into this state by, and on behalf of, an insurer for the purpose of investigating or making adjustment of a particular loss of unique and unusual character under an insurance policy or for the adjustment of a series of losses resulting from a catastrophe common to all such losses and on behalf of, as authorized by, an insurer as to which he is licensed as agent under this title. An agent may, from time to time, act as an adjuster without a license as an adjuster, but no such agent shall act as an adjuster for an insurer with which he has a contract providing for compensation retrospectively contingent upon losses incurred under insurance sold or serviced by him.

§27-9-5. Same -- Continuation and expiration.

(a) An adjuster license shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the commissioner annually, on or before December 31, of the continuation fee stated in section 27-4-2, accompanied by written request for such continuation.

(b) Any license as to which the fee and request for continuation is not received by the commissioner as required in subsection (a) of this section, shall be deemed to have expired at midnight on December 31, mentioned in subsection (a) of this section. Request for continuation of any such license and/or payment of the continuation fee therefor which is received by the commissioner after such December 31, but before the next following February 15, may be accepted and effectuated by the commissioner, in his discretion, if accompanied by a continuation fee of one and one-half times the continuation fee otherwise required.

§27-9-6. Same -- Suspension, revocation or refusal to continue.

(a) The commissioner may suspend for not more than 12 months or may revoke or refuse to continue any adjuster license if, after a hearing held on not less than 20 days' advance notice to the licensee of such hearing and of the charges against him by registered or certified mail as provided in subsection (c) of section 27-2-18, he finds that as to the licensee any one or more of the following causes exist:

(1) For any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner;

(2) For obtaining or attempting to obtain any such license through misrepresentation or fraud;

(3) For violation of or noncompliance with any applicable provision of this title or for willful violation of any lawful rule, regulation or order of the commissioner;

(4) For misappropriation or conversion to his own use or illegal withholding of moneys or property belonging to policyholders, or insurers, or beneficiaries or others and received in conduct of business under the license;

(5) Conviction, by final judgment, of a felony involving moral turpitude; or

(6) If in the conduct of his affairs under the license the licensee has used fraudulent or dishonest practices or has shown himself to be incompetent or untrustworthy.

(b) The license of a firm or corporation may be suspended, revoked or refused also for any of such causes as relate to any individual designated in the license to exercise its powers.

(c) Any party to the hearing, referred to in subsection (a) of this section, who is aggrieved by the suspension, revocation or refusal to continue a license may appeal from the commissioner's order relative thereto as provided in section 27-2- 32.

§27-9-7. Same – Return to commissioner; affidavit in lieu thereof.

(a) All licenses issued under this chapter, although issued and delivered to the licensee, shall at all times be the property of the state of Alabama. Upon any expiration, termination, suspension or revocation of the license, the licensee, or other person having possession or custody of the license, shall forthwith deliver it to the commissioner either by personal delivery or by mail.

(b) As to any license lost, stolen or destroyed while in the possession of any such licensee or person, the commissioner may accept in lieu of return of the license the affidavit of the licensee or other person responsible for, or involved in, the safekeeping of such license concerning the facts of such loss, theft or destruction.

§27-9-8. Office and records of licensee.

Each adjuster must have and maintain in this state an office accessible to the public and keep therein the usual and customary records pertaining to transactions under the license. Records relative to a particular transaction shall be so retained for not less than one year thereafter. This section shall not be deemed to prohibit maintenance of such an office in the home of the licensee. The license of the adjuster shall show the address of his office, and the licensee shall promptly give written notice to the commissioner of any change of such address.

§27-10-1. Representing or aiding unauthorized insurer not allowed; exceptions; validity of contracts.

(a) No person shall in this state, directly or indirectly, act as agent for, or otherwise represent or aid on behalf of another, any insurer not then authorized to transact such insurance in this state in the solicitation, negotiation or effectuation of insurance or annuity contracts, forwarding of applications, delivery of policies or contracts, inspection of risks, fixing of rates, investigation or adjustment of losses, collection of premiums or in any other manner in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state.

(b) This section shall not apply to:

(1) Acceptance of service of process by the commissioner under section 27-10-52;

(2) Surplus lines insurance or coverage specified in section 27-10-34 and other transactions as to which a certificate of authority is not required of an insurer;

(3) Adjustment of losses as authorized in section 27-10-35;

(4) Transactions for which a certificate of authority to do business is not required of an insurer under the laws of this state;

(5) Reinsurance effectuated in accordance with this title; or

(6) The property and operations of the shipbuilding and/or ship repair industry engaged in interstate or foreign commerce and vessels, cargoes, watercraft, piers, wharves, graven docks, drydocks, marine railways and building ways, commonly known as wet marine.

(c) This section shall not be deemed to render invalid, as between the parties thereto, any insurance contract entered into in violation of this section.

§27-10-2. Liability of persons violating section 27-10-1; liability of adjusters.

(a) Any person who in this state willfully represents or aids an unauthorized insurer in violation of section 27-10-1 shall, in addition to any other applicable penalty, be liable for the full amount of any loss sustained by the insured under any such contract and for the amount of any premium taxes which may be payable under section 27-10-35 by reason of such contract.

(b) Any adjuster who, directly or indirectly, enters into an investigation or adjustment of any loss arising under a contract of insurance or annuity issued by an unauthorized insurer and covering at time of issuance a subject of insurance resident, located or to be performed in this state shall be liable for the full amount of any loss suffered by the insured under such contract. The commissioner may, after hearing, revoke the license of such an adjuster. This subsection does not apply as to surplus lines contracts lawfully written under this chapter, or exempted under section 27-10-34, or to insurance contracts procured by the insured on his own behalf and on which the tax is paid as required by section 27-10-35 or to transactions as to which the insurer is not required to have a certificate of authority.

§27-10-3. Actions by unauthorized insurers not allowed; exceptions.

(a) No unauthorized insurer shall institute or file, or cause to be instituted or filed, any action or proceeding in this state to enforce any right, claim or demand arising out of any insurance transaction in this state until such insurer has obtained a certificate of authority to transact such insurance in this state.

(b) This section does not apply as to:

- (1) Transactions for which a certificate of authority is not required;
- (2) Surplus line coverages written under this chapter; or
- (3) Coverages exempted from the surplus line law under section 27-10-34.

§27-10-20. Procuring of surplus lines from unauthorized insurers.

If certain insurance coverages cannot be procured on terms acceptable to the insureds from authorized insurers, such coverages, designated "surplus lines," may be procured from unauthorized insurers subject to the terms and conditions of either subdivisions (1) or (2) of this section:

(1) a. The insurance must be procured through a licensed surplus line broker;

b. The full amount of insurance required must not be procurable, after diligent effort has been made to do so, from among the insurers authorized to transact and actually transacting that kind and class of insurance in this state or has been procured to the full extent such insurers are willing to insure;

c. The insurance must not be procured for the purpose of securing advantages as to a lower premium rate than would be accepted by an authorized insurer; and

d. This section, and this surplus line law, does not apply as to life insurance or disability insurance.

(2) The contracts of insurance are issued to an industrial insured, defined as an insured:

a. Which procures the insurance of any risk by use of services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained, qualified insurance consultant;

b. Whose aggregate annual premiums for insurance on all risks other than workmen's compensation and group insurance total at least \$25,000.00; and

c. Which has at least 25 employees.

§27-10-21. Report of surplus line broker.

Within 30 days after the effective date of any such insurance, the surplus line broker shall file a written report with the commissioner setting forth facts from which it can be determined whether under section 27-10-20 the coverage has

been lawfully placed as a surplus line. If so required by the commissioner, the report shall be in the form of the broker's affidavit. If so required by the commissioner, the report shall be accompanied by a written statement signed by the insured to the effect that the coverage was placed in an unauthorized insurer with the insured's knowledge and consent.

§27-10-22. Endorsement of surplus line contract.

Every insurance contract procured and delivered as a surplus line coverage pursuant to this article shall be initialed by, or bear the name and license number of, the surplus line broker who procured it and shall have stamped upon it the following:

"This contract is registered and delivered as a surplus line coverage under the Alabama Surplus Line Insurance Law."

§27-10-23. Validity and enforceability of surplus line contracts.

Insurance contracts procured as "surplus line" coverages from unauthorized insurers in accordance with this article shall be fully valid and enforceable as to all parties and shall be given acceptance and recognition in all matters and respects to the same effect and extent as like contracts issued by authorized insurers.

§27-10-24. Licensing of surplus line brokers.

Any person, while licensed as a resident agent or broker of this state as to property, casualty and surety insurance and who is deemed by the commissioner to have had sufficient experience in the insurance business to be competent for the purpose may be licensed as a surplus line broker for the types and kinds of insurance that he as a resident agent or broker is licensed to handle as follows:

(1) Application to the commissioner for the license shall be made on forms as designated and furnished by the commissioner;

(2) License fee in the amount stated in section 27-4-2 shall be paid to the commissioner. The license shall expire on the first day of January next after its issue; and

(3) Prior to the issuance of the license, the applicant shall file with the commissioner, and thereafter for as long as any such license remains in effect he shall keep in force and unimpaired, a bond in favor of the state of Alabama in the penal sum of \$5,000.00, aggregate liability, with authorized corporate sureties approved by the commissioner. The bond shall be conditioned that the broker will conduct business under the license in accordance with the provisions of the surplus line insurance law and that he will promptly remit the taxes as provided by such law. No such bond shall be terminated unless at least 30 days' prior written notice thereof is given to the broker and the commissioner.

§27-10-25. Acceptance and placement of surplus line business from agents or brokers.

A licensed surplus line broker may accept and place surplus line business for any insurance agent or broker licensed in this state for the kind and class of insurance involved and may compensate such agent or broker therefor. No such agent shall knowingly misrepresent to the broker any material fact involved in any such insurance or in the eligibility thereof for placement with an unauthorized insurer.

§27-10-26. Eligibility of insurers for placement of surplus line insurance.

(a) A surplus line broker shall not knowingly place surplus line insurance with an insurer that is unsound financially, or that is ineligible under this section. The broker shall ascertain the financial condition of the unauthorized insurer before placing insurance therewith.

(b) The broker shall not so insure:

(1) With any insurer which is not an authorized insurer in at least one state of the United States for the kind of insurance involved, and with capital and/or surplus amounting to at least \$1,500,000.00; or guaranteed trust fund amounting to at least \$750,000.00; or

(2) With an alien insurer not authorized to transact insurance in at least one state of the United States, unless such insurer shall have established an effective trust fund of at least \$750,000.00 within the United States administered by a recognized financial institution and held for the benefit of all its policyholders or policyholders and creditors in the United States; or

(3) With a foreign or alien insurer which has transacted insurance as an authorized insurer in its state or country of domicile for less than three years, unless it is a wholly owned subsidiary of an insurer authorized to transact insurance in this state; or

(4) With an insurer the voting control of which is held in whole or substantial part by any government or governmental agency; or

(5) In any insurer made ineligible as a surplus line insurer by order of the commissioner received by or known to the broker. The commissioner may issue such an order of ineligibility if he finds that the insurer:

a. Does not meet the financial requirements of this section;

b. Has without just cause refused to pay valid claims arising under its contracts in this state or has otherwise conducted its affairs in such a manner as to result in injury or loss to the insuring public of this state; or

c. Has conducted its affairs in such a manner as to result in the avoidance of payment of tax as required by sections 27-10-31 and 27-10-35.

§27-10-27. Evidence of surplus line insurance; changes; issuance of false certificate and failure to notify insured of material change.

(a) Upon placing a surplus line coverage, the broker shall promptly issue and deliver to the insured evidence of the insurance, consisting either of the policy

as issued by the insurer or, if such policy is not then available, the surplus line broker's certificate. Such a certificate shall be executed by the broker and shall show the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and taxes collected from the insured and the name and address of the insured and insurer. If the direct risk is assumed by more than one insurer, the certificate shall state the name and address and proportion of the entire direct risk assumed by each such insurer.

(b) No broker shall issue any such certificate or any cover note or purport to insure or represent that insurance will be, or has been, granted by any unauthorized insurer unless he has prior written authority from the insurer for the insurance, or has received information from the insurer in the regular course of business that such insurance has been granted or an insurance policy providing the insurance actually has been issued by the insurer and delivered to the insured.

(c) If after the issuance and delivery of any such certificate there is any change as to the identity of the insurers, or the proportion of the direct risk assumed by an insurer as stated in the broker's original certificate or in any other material respect as to the insurance coverage evidenced by the certificate, the broker shall promptly issue and deliver to the insured a substitute certificate accurately showing the current status of the coverage and the insurers responsible thereunder.

(d) If a policy issued by the insurer is not available upon placement of the insurance and the broker has issued and delivered his certificate as provided in this section, upon request therefor by the insured, the broker shall, as soon as reasonably possible, procure from the insurer its policy evidencing such insurance and deliver such policy to the insured in replacement of the broker's certificate theretofore issued.

(e) Any surplus line broker who knowingly or negligently issues a false certificate of insurance or who fails promptly to notify the insured of any material change with respect to such insurance by delivery to the insured of a substitute certificate as provided in subsection (c) of this section shall, upon conviction, be subject to the penalties provided by section 27-1-12 or to any greater applicable penalty otherwise provided by law.

§27-10-28. Liability of insurer as to losses and unearned premiums.

(a) As to a surplus line risk which has been assumed by an unauthorized insurer pursuant to this surplus line insurance law and if the premium thereon has been received by the surplus line broker who placed such insurance, in all questions thereafter arising under the coverage as between the insurer and the insured, the insurer shall be deemed to have received the premium due to it for such coverage and the insurer shall be liable to the insured as to losses covered by such insurance and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not in fact the broker is indebted to the insurer with respect to such insurance or for any other cause.

(b) Each unauthorized insurer assuming a surplus line direct risk under this surplus line insurance law shall be deemed thereby to have subjected itself to the terms of this section.

§27-10-29. Records of surplus line brokers.

(a) Each surplus line broker shall keep in his office in this state a full and true record of each surplus line contract procured by him, including a copy of the policy, certificate, cover note or other confirmation of insurance and of the daily report, if any, and showing such of the following items as may be applicable:

- (1) Amount of the insurance and risks insured against;
- (2) Gross premium charged;
- (3) Return premium paid, if any;
- (4) Rate of premium charged upon the several items of property;
- (5) Effective date of the contract and the terms thereof;
- (6) Name and address of the insurer;
- (7) Name and address of the insured;
- (8) Brief general description of property insured and where located;
- (9) Amount of tax and other sums collected from the insured; and
- (10) Other information as may be required by the commissioner.

(b) The record shall at all times be open to examination by the commissioner and shall be kept available and open to the commissioner for five years next following the issuance of the contract.

§27-10-30. Annual statement of surplus line broker.

(a) Each surplus line broker shall, on or before the first day of March of each year, file with the commissioner a verified statement of all surplus line insurance transacted by him during the preceding calendar year.

(b) The statement shall be on forms as prescribed and furnished by the commissioner and shall show:

- (1) Gross amount of each kind of insurance transacted;
- (2) Aggregate gross premiums charged, exclusive of sums collected to cover state or federal taxes;
- (3) Aggregate of returned premiums and taxes paid to insureds;
- (4) Aggregate of net premiums; and
- (5) Additional information as required by the commissioner.

§27-10-31. Annual tax of surplus line brokers.

THIS SECTION WAS AMENDED IN THE 1993 REGULAR SESSION. THE TEXT OF THE SECTION AS IT WAS AMENDED IN THE 1993 REGULAR SESSION IS INCLUDED. IT WILL BECOME EFFECTIVE JANUARY 1, 1995.

(a) On or before the first day of March each year, the surplus line broker shall remit to the state treasurer through the commissioner, as a tax imposed for the privilege of transacting business as a surplus line broker in this state, a tax of four percent on the direct premiums, less return premiums and exclusive of sums collected to cover state or federal taxes, on surplus line insurance subject to tax transacted by him during the preceding calendar year as shown by his annual statement filed with the commissioner.

(b) If a surplus line policy covers risks or exposures only partially in this state, the tax so payable shall be computed on the proportion of the premium which is properly allocable to the risks or exposures located in this state.

(c) The tax under the provisions of this section shall be subject to deduction of the full amount of all expenses of examination of the surplus line broker by the commissioner in the same manner as that allowed for domestic insurers for examination expenses under the provisions of subdivision (4) of subsection (b) of section 27-4-5.

27-10-31. Annual tax of surplus line brokers.

(a) On or before the first day of March each year, the surplus line broker shall remit to the State Treasurer through the commissioner, as a tax imposed for the privilege of transacting business as a surplus line broker in this state, a tax of six percent on the direct premiums, less return premiums and exclusive of sums collected to cover state or federal taxes, on surplus line insurance subject to tax transacted by the broker during the preceding calendar year as shown by the annual statement filed with the commissioner.

(b) If a surplus line policy covers risks or exposures only partially in this state, the tax so payable shall be computed on the proportion of the premium which is properly allocable to the risks or exposures located in this state.

(c) The tax under the provisions of this section shall be subject to deduction of the full amount of all expenses of examination of the surplus line broker by the commissioner in the same manner as that allowed for domestic insurers for examination expenses under the provisions of subdivision (5) of subsection (c) of Section 27-4A-3. All taxes collected under this section shall be deposited in the State Treasury to the credit of the State General Fund.

§27-10-32. Revocation or suspension of surplus line broker's license.

(a) The commissioner may revoke or suspend any surplus line broker's license:

(1) If the broker fails to file his annual statement or to remit the tax as required by law;

(2) If the broker fails to maintain an office in this state, or to keep the records or to allow the commissioner to examine his records as required by law; or

(3) For any of the causes for which an agent's license may be revoked.

(b) The commissioner may suspend or revoke the broker's license if he finds that the broker has, willfully or without exercise of due care, placed any insurance coverage with an unauthorized insurer in violation of any of the requirements or conditions of section 27-10-20.

(c) The procedures and rights provided by section 27-7-19 as for the suspension or revocation of agents' licenses shall be applicable to suspension or revocation of a surplus line broker's license.

(d) No broker whose license has been so revoked shall again be so licensed within one year thereafter nor until any fines or delinquent taxes owing by him have been paid.

§27-10-33. Service of process in action or proceeding against insurer.

(a) Any unauthorized insurer issuing a policy or assuming a direct insurance risk under this surplus line law shall be deemed thereby to have appointed the commissioner as its attorney upon whom may be served all lawful process in any action or proceeding against it in this state arising out of such insurance.

(b) Service of process upon the commissioner as process agent of the insurer shall be made by the proper officer of Montgomery county by serving copies in triplicate of the process upon the commissioner or upon his assistant, deputy or other person in charge of his office. Upon receiving such service, the commissioner shall promptly forward a copy thereof by certified mail or registered mail to the person last designated to receive the same, as provided in subsection (c) of this section, return one copy with his admission of service and retain one copy in the files of the department.

(c) Each such policy, or the certificate of insurance issued by the broker, shall contain a provision stating the substance of this section and designating the person to whom the commissioner shall mail process as provided for in subsection (b) of this section. The broker shall, likewise, file the name of such person with the commissioner. As to the same unauthorized insurer and all insurance coverages issued or accepted by it under this surplus line law, no more than one person shall at any one time be the designee to whom copies of process against the insurer, served upon the commissioner, shall be forwarded.

(d) Where process is served upon the commissioner as an insurer's process agent, the insurer shall not be required to answer or plead except within 30 days after the date upon which the commissioner mailed a copy of the process served upon him as required by subsection (b) of this section.

(e) Process served upon the commissioner, and copy thereof forwarded as in this section provided, shall for all purposes constitute valid and binding service thereof upon the insurer.

§27-10-34. Exemptions from surplus line insurance law.

The provisions of this surplus line insurance law controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurances when so placed by licensed agents or brokers of this state:

(1) Wet marine and transportation insurance;

(2) Insurance on subjects located, resident or to be performed wholly outside of this state or on vehicles or aircraft owned and principally garaged outside this state;

(3) Insurance on property or operation of railroads engaged in interstate commerce;

(4) Insurance of aircraft owned or operated by manufacturers of aircraft or aircraft operated in scheduled interstate flight, or cargo of such aircraft or against liability, other than workmen's compensation and the employer's liability, arising out of the ownership, maintenance or use of such aircraft; and

(5) The property and operations of the shipbuilding and ship repair industry engaged in interstate or foreign commerce and vessels, cargoes, watercraft, piers, wharves, graving docks, drydocks, marine railways and building ways, commonly known as wet marine.

§27-10-35. Report of, and tax on, independently procured coverages; exceptions.

(a) Anyone who may desire to place his insurance in a foreign insurer not authorized to do business in this state may place such insurance, and any insured who in this state procures, or causes to be procured, or continues or renews insurance in an unauthorized foreign insurer or any self-insurer who in this state so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this state, other than insurance procured through a surplus line broker pursuant to the surplus lines law of this state or exempted from such law under section 27-10-34 shall, within 90 days after the date such insurance was so procured, continued or renewed, file a written report of the same with the commissioner on forms designated by the commissioner and furnished to such an insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor and such additional pertinent information as is reasonably requested by the commissioner. If any such insurance covers also subjects of insurance resident, located or to be performed outside this state, a proper pro rata portion of the entire premium payable for all such insurance shall be allocated as to the subjects of insurance resident, located or to be performed in this state for the purposes of this section.

(b) Any insurance in an unauthorized insurer procured through negotiations or an application, in whole or in part, occurring or made within or from within this state or for which premiums, in whole or in part, are remitted, directly or indirectly, from within this state shall be deemed to be insurance procured, or continued or renewed in this state within the intent of subsection (a) of this section.

(c) For the general support of the government of this state, there is levied upon the obligation, chose in action or right represented by the premium charged or payable for such insurance a tax at the rate of four percent of the gross amount of such premium. The insured shall withhold the amount of the tax from the amount of premium charged by and otherwise payable to the insurer for such insurance; and, within 30 days after the insurance was so procured, continued or renewed and coincidentally with the filing with the commissioner of the report provided for in subsection (a) of this section, the insured shall pay the amount of the tax to the state treasurer through the commissioner.

(d) If the insured fails to withhold from the premium the amount of tax levied by this section, the insured shall be liable for the amount thereof and shall pay the same to the commissioner within the time stated in subsection (c) of this section.

(e) The tax imposed under this section, if delinquent, shall bear interest at the rate of six percent per annum, compounded annually.

(f) Payment of such tax shall be enforced by the commissioner by civil action against any person failing to pay the tax provided for in this section.

(g) A licensed adjuster may lawfully investigate and adjust any loss occurring or claim made under any such contract of insurance as to which the tax has been paid as provided in this section.

(h) This section does not apply as to life or disability insurances.

§27-10-36. Production of policies, etc., for inspection by commissioner.

Every person as to whom insurance is placed with an unauthorized insurer, upon the commissioner's order, shall produce for his examination all policies and other documents evidencing the insurance and shall disclose to the commissioner the amount of gross premiums paid, or agreed to be paid, for the insurance. For each willful refusal to obey such order, such person shall be liable to a fine of not more than \$500.00.

§27-10-37. Penalty for violation of article.

(a) Any person who in this state represents or aids a nonadmitted insurer in willful violation of the provisions of this surplus lines insurance law shall, upon conviction thereof, be guilty of a misdemeanor and be subject to a fine not in excess of \$1,000.00 or imprisonment for not more than one year, or by both such fine and imprisonment, in the discretion of the court.

(b) In addition to the penalties provided for in subsection (a) of this section, such violator shall be liable, personally, jointly and severally, with any other person, or persons, liable therefor for payment of taxes payable on account of such insurance.

(c) In addition to any other penalty provided for in this section or otherwise provided by law, including suspension, revocation or refusal to renew license, any person, firm, association or corporation willfully violating any provision of this article shall be liable to a penalty not exceeding \$1,000.00 for the first offense and not exceeding \$2,000.00 for each succeeding offense.

§27-10-38. Short title.

This article constitutes, and may be referred to as, "the surplus line insurance law."

§27-10-50. Purpose.

The purpose of this article is to subject certain insurers to the jurisdiction of courts of this state in actions by, or on behalf of, insureds or beneficiaries under insurance contracts. The legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued or delivered in this state by insurers while not authorized to do business in this state, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such state interest, the legislature provides in this article a method of substituted service of process upon such insurers and declares that in so doing it exercises its power to protect its residents and to define, for the purpose of this article, what constitutes doing business in this state and also exercises powers and privileges available to the state by virtue of the federal Insurance Regulation Act, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

§27-10-51. Acts constituting appointment of commissioner as agent for service of process on foreign or alien insurer.

Any of the following acts in this state, effected by mail or otherwise, by an unauthorized foreign or alien insurer:

- (1) The issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein;
- (2) The solicitation of applications for such contracts;
- (3) The collection of premiums, membership fees, assessments or other considerations for such contracts; or
- (4) Any other transaction of insurance business;

is equivalent to, and shall constitute, an appointment by such insurer of the commissioner and his successor or successors in office to be its true and lawful attorney, upon whom may be served all lawful process in any action or proceeding instituted by, or on behalf of, an insured or beneficiary arising out of any such contract of insurance; and any such act shall be signification of the insurer's agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

§27-10-52. Service of process upon insurer; judgment by default.

(a) Service of process upon an insurer pursuant to section 27-10-51 shall be made by delivering to, and leaving with, the commissioner, or some person in apparent charge of his office, two copies thereof and the payment to him of such fees as may be prescribed by law. The commissioner shall forthwith mail by

registered mail one of the copies of the process to the defendant at its last known principal place of business and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of the service and a copy of the process are sent promptly after such service by the commissioner by registered mail to the defendant at its last known principal place of business and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the certificate of the commissioner showing a compliance herewith are filed with the clerk or register of the court in which such action is pending on, or before, the date the defendant is required to appear, or within such further time as the court may allow.

(b) Service of process in any such action or proceeding shall in addition to the manner provided in subsection (a) of this section, be valid if served in the manner provided by law upon any person within this state, who, in this state on behalf of such insurer, is:

(1) Soliciting insurance;

(2) Making, issuing or delivering any contract of insurance; or

(3) Collecting or receiving any premium, membership fee, assessment or other consideration for insurance; and a copy of such process is sent within 10 days thereafter by registered mail by the clerk or register of the court in which the action or proceeding is pending to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, are filed with the clerk or register of the court in which the action is pending on, or before, the date the defendant is required to appear, or within such further time as the court may allow.

(c) No plaintiff or complainant shall be entitled to a judgment by default under this section until the expiration of 30 days from date of the completion of service as provided in this section.

(d) Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner, now or hereafter, permitted by law.

§27-10-53. Defense of action or proceeding by insurer.

(a) Before an unauthorized insurer shall file, or cause to be filed, any pleading in any action or proceeding instituted against it under sections 27-10-51 and 27-10-52, such insurer shall:

(1) Procure a certificate of authority to transact insurance in this state; or

(2) Deposit with the clerk of the court in which such action or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be entered in

such action. The court may, in its discretion, make an order dispensing with such deposit or bond where the insurer makes a showing satisfactory to the court that it maintains in a state of the United States funds or securities, in trust or otherwise, sufficient and available to satisfy any final judgment which may be entered in such action or proceeding and that the insurer will pay any final judgment entered therein without requiring an action to be brought on such judgment in the state where such funds or securities are located.

(b) The court, in any action or proceeding in which service is made in the manner provided in section 27-10-52, may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (a) of this section, and to defend such action.

(c) Nothing in subsection (a) of this section is to be construed to prevent an unauthorized insurer from filing a motion to quash or to set aside the service of any process made in the manner provided in section 27-10-52 on the ground either:

(1) That such unauthorized insurer has not done any of the acts enumerated in section 27-10-51; or

(2) That the person on whom service was made pursuant to subsection (b) of section 27-10-52 was not doing any of the acts therein enumerated.

§27-10-54. Transaction of insurance business not authorized by article.

Nothing in the Unauthorized Insurers Process Act shall be construed to authorize or permit the transaction of any insurance business in this state by any unauthorized insurer nor relieve any such insurer from any penalty provided by law in the transaction of business in this state.

§27-10-55. Exemptions.

This Unauthorized Insurers Process Act shall not apply as to surplus line insurance lawfully effectuated under this title nor to any action or proceeding against an unauthorized insurer arising out of:

(1) Wet marine and transportation insurance;

(2) Insurance on, or with respect to, subjects located, resident or to be performed wholly outside this state or on, or with respect to, vehicles or aircraft owned and principally garaged outside this state;

(3) Insurance on property or operations of railroads engaged in interstate commerce; or

(4) Insurance on aircraft or cargo of such aircraft or against liability, other than employer's liability, arising out of the ownership, maintenance or use of such aircraft where the policy or contract contains a provision designating the commissioner as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by, or on behalf of, an insured or beneficiary arising out of

any such policy or contract or where the insurer enters a general appearance in any such action or proceeding.

§27-10-56. Short title; construction of article.

(a) This article constitutes and may be cited as the Unauthorized Insurers Process Act.

(b) This article shall be so interpreted as to effectuate its general purpose to make uniform the law of those states which enact it.

§27-11-1. Purpose of chapter; short title.

The legislature declares its concern that insurers not licensed to transact the business of insurance in this state are soliciting the sale of insurance and selling insurance to residents of this state, thus presenting the commissioner with the problem of resorting to courts of foreign jurisdictions for the purposes of enforcing the insurance laws of this state for the protection of its residents. It is the purpose of this unauthorized insurers law to make it unlawful for insurers that are not licensed to transact the business of insurance in this state and to subject said insurers to the jurisdiction of the courts of this state in actions or proceedings brought by the commissioner in transactions involving unauthorized insurers or for the protection of insureds and claimants residing in this state and for the protection of the public. This chapter constitutes and may be referred to as the "Unauthorized Insurers Law."

§27-11-2. Prohibition against transaction of insurance business, etc., in state without license; exceptions.

It shall be unlawful for any insurer to transact the business of insurance in this state or to enter into a contract for insurance in this state without first obtaining a license or certificate of authority from the commissioner. This unauthorized insurers law shall not apply to:

(1) Contracts of insurance procured pursuant to the surplus line insurance law;

(2) Transactions in this state involving contracts of insurance lawfully entered into, written and the policy delivered outside of this state covering subjects of insurance not resident, located or expressly to be performed in this state at the time of issuance and transactions subsequent to the making of such contract and the issuance of such policy;

(3) Reinsurance contracts;

(4) Transactions in this state involving group or blanket insurance and group annuities where the master policy or contract was lawfully issued and delivered in a state in which the insurer was authorized to transact business;

(5) Transportation insurance;

(6) Insurance on property or operation of railroads engaged in interstate commerce;

(7) Insurance of aircraft owned or operated by manufacturers of aircraft or aircraft operated in scheduled interstate flight or cargo of such aircraft or against liability, other than workmen's compensation and the employer's liability, arising out of the ownership, maintenance or use of such aircraft;

(8) The property and operations of shipbuilding and ship repair industry engaged in interstate or foreign commerce and vessels, cargoes, watercraft, piers, wharves, graving docks, dry docks, marine railways and building ways, commonly known as wet marine;

(9) Transactions in this state involving a policy or contract of insurance issued prior to 60 days after the effective date of this title; or

(10) Contracts of insurance issued to an industrial insured, defined as an insured:

a. Which procures the insurance of any risk by use or services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained, qualified insurance consultant;

b. Whose aggregate annual premiums for insurance on all risks other than workmen's compensation and group insurance, total at least \$25,000.00; and

c. Which has at least 25 employees.

§27-11-3. Occurrences and acts deemed to constitute transacting of insurance business in state.

Any of the following occurrences or acts in this state, whether effected by mail or otherwise, by an insurer not licensed to do business in this state shall be included among those occurrences and acts deemed to constitute the transacting of the business of insurance in this state:

(1) The issuance or delivery of contracts or policies of insurance covering subjects resident, located or expressly to be performed in this state;

(2) The solicitation of applications for such insurance;

(3) The collection of premiums, membership fees, assessments or other considerations for such insurance; or

(4) The transacting of matters subsequent to the execution of such contracts and arising out of them or concerning them.

§27-11-4. Actions and proceedings against violating or noncomplying insurers.

Whenever the commissioner believes, from evidence satisfactory to him, that any insurer is violating or not complying with the provisions of this unauthorized insurers law, the commissioner may, and is hereby empowered to, bring an action or proceeding against such insurer in the circuit court of Montgomery county, Alabama, to enjoin or restrain such violation or continuing

noncompliance or the engaging therein or doing of any act in furtherance of such violation. The circuit court of Montgomery county, Alabama shall have jurisdiction of the proceedings and shall have the power and authority to make and enter such order or judgment as to such court shall be deemed proper.

§27-11-5. Secretary of state as agent for service of process on insurer; service of process; attachment of jurisdiction; fees for service.

(a) Any insurer not qualified under the laws of this state to transact the business of insurance as evidenced by a license or certificate of authority from the commissioner of insurance which shall transact, or attempt to transact, the business of insurance in this state or which shall do, or attempt to do, any of the acts and occurrences set out in section 27-11-3 shall, by the doing of such business or the performing or attempting to perform any of such acts, be deemed to have appointed the secretary of state, or his successor or successors in office, to be the true and lawful attorney or agent of such insurer whom process may be served in any action accrued or accruing from the transacting of such business or the performing of such act by any such insurer, or by its agent, servant or employee. Service of such process shall be made by serving three copies of the process on the said secretary of state, and such service shall be sufficient service upon the said insurer, provided, that notice of such service and a copy of the process are forthwith sent by registered or certified mail by the secretary of state to the defendant at its last known address, which shall be stated in the affidavit of the plaintiff or complainant, marked "deliver to addressee only" and "return receipt requested," and provided, further, that such return receipt shall be received by the secretary of state purporting to have been signed by said insurer, or the secretary of state shall be advised by the postal authority that delivery of said registered or certified mail was refused by said insurer; and the date on which the secretary of state receives said return receipt, or advice by the postal authority that delivery of said registered or certified mail was refused shall be treated and considered as the date of service of process on said insurer. The secretary of state shall make an affidavit as to the service of said process on him, and as to his mailing a copy of the same and notice of such service to the insurer and as to the receipt of said return receipt, or advice of the refusal of said registered or certified mail, and the respective dates thereof, and shall attach said affidavit, return receipt or advice from the postal authority to a copy of the process and shall return the same to the clerk or register who issued the same, and all of the same shall be filed in the action by the clerk or register. The commissioner, or his agent or attorney, desiring to obtain service upon an insurer under the provisions of this unauthorized insurers law shall make and file in the action an affidavit stating facts showing that this section is applicable and stating the last known address of the insurer, and the clerk or register of the court in which the action is filed shall attach a copy of the affidavit to the writ or process and a copy of the affidavit to each copy of the writ or process and forward the original writ or process and three copies thereof to the sheriff of Montgomery county, Alabama, for service on the secretary of state; and it shall be the duty of the sheriff to serve the same on the secretary of state and to make due return of such service. The court in which the action is pending may order such continuance of the action as may be necessary to afford the defendant, or defendants, reasonable opportunity to make defense. Any insurer who was licensed to transact the business of insurance in this state at the time of the doing of business or the performing of the act complained of, but which is not so licensed or authorized at the time of the pendency of an action involving the transacting of the business of

insurance or the act or occurrence complained of, shall be deemed to be an unauthorized insurer within the meaning of this chapter, and service of process under such circumstances may be had as provided in this section.

(b) Service of summons when obtained upon any such insurer as provided in subsection (a) of this section for the service of process shall be deemed sufficient service of summons and process to give to the circuit court of Montgomery county, Alabama, jurisdiction over the cause of action and over such insurer and shall warrant and authorize personal judgment against such defendant, or defendants, in the event that the plaintiff prevails in the action. There shall be paid to the secretary of state for services under this section fees as may be provided for service of process on nonresidents doing business or performing work or service in this state.

§27-11-6. Validity of acts or contracts of unauthorized insurer; actions against or by same.

The failure of an insurer to obtain a license or certificate of authority shall not impair the validity of any act or contract of such insurer and shall not prevent such insurer, its assigns or successors in interest, from defending any action in any court of this state; but no insurer transacting insurance business in this state without a license or certificate of authority shall be permitted to maintain an action in any court of this state to enforce any right, claim or demand arising out of the transaction of such business until such company, its assigns or successors in interest shall have:

(1) Obtained a license or certificate of authority; or

(2) Deposited with the clerk of the court in which such action or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be entered in such action; provided, that the court may, in its discretion and after reasonable notice to the opposing parties and upon a hearing, make an order dispensing with such deposit or bond where the insurer makes a showing satisfactory to such court that it maintains in a state of the United States funds or securities, in trust or otherwise, sufficient and available to satisfy any final judgment which may be entered in such action or proceeding.

No action shall be maintained, except upon the conditions provided in this section, in any court of this state by any successor or assignee or assumpor of such unauthorized insurer which has acquired all or substantially all of the assets of such unauthorized insurer.

§27-11-7. Penalty for violation of chapter.

Any insurer which willfully violates the provisions of the unauthorized insurers law shall, upon proof thereof, forfeit and pay to the state of Alabama a sum of not less than \$50.00 and not more than \$500.00 for each offense, which may be recovered in a civil action brought by the commissioner under the provision of this unauthorized insurers law.

27th Day**§27-12-1. Purpose of chapter; short title.**

(a) The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the Insurance Regulation Act by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

(b) This chapter shall constitute, and may be referred to, as the "Trade Practices Law."

§27-12-2. General prohibition against unfair competition, etc.

No person shall engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to this chapter to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

§27-12-3. Repealed by Acts 1977, No. 607, p. 812, §9901, effective January 1, 1980.

§27-12-4. Repealed by Acts 1977, No. 607, p. 812, §9901, effective January 1, 1980.

§27-12-5. Repealed by Acts 1977, No. 607, p. 812, §9901, effective January 1, 1980.

§27-12-6. "Twisting."

No person shall make or issue, or cause to be made or issued, any written or oral statement misrepresenting or making misleading incomplete comparisons as to the terms, conditions or benefits contained in any policy for the purpose of inducing, or attempting or tending to induce, the policyholder to lapse, forfeit, surrender, retain, exchange or convert any insurance policy.

§27-12-7. False statements and entries.

(a) No person shall file with any supervisory or other public official or make, publish, disseminate, circulate or deliver to any person or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

(b) No person shall make any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs or, with like intent, willfully omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

(c) Any insurer willfully making a false annual or other statement required of it under this title and individuals knowingly making oath to and subscribing the

same shall be punished by a fine of not less than \$500.00 nor exceeding \$5,000.00.

§27-12-8. Boycotts, coercion and intimidation.

No person shall enter into any agreement to commit or, by any concerted action, commit any act of boycott, coercion or intimidation resulting in, or tending to result in, unreasonable restraint of, or monopoly in, the business of insurance.

§27-12-9. Malicious statements on financial condition.

No person shall make, publish, disseminate or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false or maliciously critical of, or derogatory to, the financial condition of an insurer or of an organization proposing to become an insurer and which is calculated to injure any person engaged, or proposing to engage, in the business of insurance.

§27-12-10. Financial inducements to purchase insurance.

(a) No person shall issue or deliver, or permit its agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities, or any special or advisory board contract or other contract of any kind promising returns and profits as an inducement to insurance. The commissioner shall refuse to issue certificate of authority or license to any insurer or other person that is in violation of this section and shall revoke the certificate of authority or license of any such violating insurer or person if such authority or license is already outstanding.

(b) No person shall issue or deliver, or permit its agents, officers or employees to issue or deliver, in this state, any life insurance policy or contract of annuity in which are used such words as "investment plan," "expansion plan," "profit-sharing," "charter plan," "founders' plan," "surplus-sharing," or similar language in such context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of life insurance to believe that he will receive or that it is probable he will receive something other than an insurance policy, or contract, or some benefit not provided in the policy or contract or some benefit not available to other persons of the same class and equal expectation of life.

(c) No insurer shall issue or deliver, or permit its agents, officers or employees to issue or deliver, in this state a policy of life insurance containing benefits in the form of "coupons" or "guaranteed annual endowment" benefits unless the premium charged for the insurance coverage and the premium charged for the "coupons" or "guaranteed annual endowment" benefits are prominently specified in the policy separately from each other in dollar amounts. This shall not apply to any policy in which the amount of any pure endowment or periodic benefit, or benefits, payable during any policy year is greater than the total annual premium for such year.

§27-12-11. Life, annuity and disability insurance -- Unfair discrimination in rates, etc.

(a) No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity, or in the dividends or other benefits payable thereon or in any other of the terms and conditions of such contract.

(b) No person shall make or permit any unfair discrimination between amount of premium, policy fees or rates charged for any policy or contract of disability insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract or in any other manner whatever.

§27-12-12. Same -- Agreements not expressed in contract, rebates and other inducements.

(a) No person shall knowingly permit or offer to make, or make, any contract of life insurance, annuity or disability insurance or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow or give, directly or indirectly, as an inducement to such insurance or annuity any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract, or, directly or indirectly, give, or sell, or purchase or offer or agree to give, sell, purchase or allow as inducement to such insurance or annuity or in connection therewith, and whether or not to be specified in the policy or contract, any agreement of any form or nature promising returns and profits, or any stocks, bonds, or other securities, or interest present or contingent therein of any insurance company or other corporation, association or partnership or any dividends or profits accrued, or to accrue thereon, or offer, promise or give anything of value whatsoever not specified in the contract.

(b) The commissioner may, after hearing, revoke the certificate of authority of any insurer and the licenses of any agent or other licensed representative that has willfully violated this section.

§27-12-13. Same -- Exceptions to discrimination, rebates or special inducements.

Nothing in sections 27-12-11 and 27-12-12 shall be construed as including within the definition of discrimination, rebates or special inducements any of the following practices:

(1) In the case of any contract of life insurance or annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided, that any such bonuses or abatement of premiums is fair and equitable to policyholders and for the best interests of the insurer and its policyholders;

(2) In the case of life or disability insurance policies issued on the industrial debit or weekly premium plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

(3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) In the case of life insurers, allowing its bona fide employees to receive a commission or reduction on the premiums paid by them on policies on their own lives or on the lives of their children or spouse;

(5) Issuing life or disability insurance policies on a salary savings, bank draft, preauthorized check or payroll deduction plan or other similar plan at a reduced rate reasonably related to the savings made by the use of such plan;

(6) In the case of life insurance, a written agreement between the parties for an extension of time for payment of a second or subsequent premium on the policy upon condition that the failure to pay the amount as and when so agreed shall lapse the policy; but no such agreement shall impair any right to extended or paid-up insurance which the insured may have under the policy nor any right to have the premiums, or any part thereof, or the amount payable for such extension charged against the policy under the terms of the policy. No such agreement need be attached to or made a part of the policy so affected; or

(7) Paying commissions or other compensation to duly licensed agents or allowing or returning to participating policyholders dividends or savings.

§27-12-14. Inducements as to property, casualty or surety insurance.

(a) No property, casualty or surety insurer, or any employee thereof, and no broker, agent or solicitor shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon or any valuable consideration or inducement whatever not specified in the policy except to the extent provided for in rating systems filed with the commissioner by, or on behalf of, the insurer and approved by the commissioner.

(b) No insured named in a policy nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium.

(c) Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, brokers or solicitors or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or the unused or unabsorbed portion of premiums and premium deposits.

(d) Nothing in this section or in this title shall be deemed to invalidate any insurance contract, or any amendment of, or agreement as to, such contract or the continuance or renewal of such contract which does not comply with chapters 12 or 14 of this title or any other provisions of this title, and no insured named in the policy and no officer or employee of such insured shall be deemed to have

violated any provision of this title by knowingly receiving or accepting such contract, amendment, agreement, continuance or renewal, provided, that this subsection shall not be deemed to relieve any authorized insurer or licensed agent, broker, solicitor or surplus line broker of any forfeiture or penalty otherwise applicable under this title on account of any such violation, nor relieve any person otherwise liable therefor with respect to any tax payable on account of such insurance, nor relieve any insured named in the policy nor any employee of such insured who knowingly receives or accepts any rebate, discount, abatement, credit or reduction of the premium in violation of subsection (b) of this section, of any penalty otherwise applicable under this title on account of any such violation.

(e) No person in this state shall advertise, offer or provide free insurance as an inducement to the purchase or sale of real or personal property or of services, directly or indirectly, connected with such real or personal property.

(1) For the purposes of this subsection, "free insurance" is insurance for which no identifiable and additional charge is made to the purchase of such real property or personal property or services or insurance for which an identifiable or additional charge is made in an amount less than the cost of such insurance as to the seller or other person, other than the insurer providing the same.

(2) This subsection does not apply to:

a. Insurance for loss of, or damage to, the real or personal property involved in any such sale or services under a policy covering the interests therein of the seller or vendor;

b. Blanket disability insurance as defined in section 27-20-4;

c. Credit life insurance or credit disability insurance;

d. Any individual, isolated, nonrecurring, unadvertised transaction not in regular course of business; or

e. Title insurance.

(3) No person shall use the word "free" to describe life or disability insurance in connection with the advertising or offering for sale of any kind of goods, merchandise or services.

§27-12-15. Purchase of insurance as condition precedent to sale or loan on property.

No person, firm or corporation engaged in selling real or personal property or of lending money on the security of real or personal property and no trustee, director, officer, agent or other employee of any such person, firm or corporation shall require, or attempt or purport to require, as a condition precedent, concurrent or subsequent, to the sale or to financing the purchase of such property or to lending money upon the security of a mortgage thereon nor as a condition precedent, concurrent or subsequent, for the renewal or extension of any such loan or mortgage or for the performance of any other act in connection therewith that the person, firm or corporation purchasing such property, or for whom such

purchase is to be financed, or to whom the money is to be loaned, or for whom such extension, renewal or other act is to be granted or performed negotiate any policy of insurance, or renewal thereof, covering such property or covering any liability arising from the ownership, maintenance or use thereof through a particular insurer, agent, solicitor or broker. This section shall not prevent the exercise by any person, firm or corporation of its right to designate reasonable and nondiscriminatory financial requirements as to insurer, the terms and provisions of the policy and the adequacy of the coverage with respect to insurance on property pledged or mortgaged to such person, firm or corporation; provided, however, that nothing in this section shall be construed as to prohibit the right of any person, firm or corporation from voluntarily negotiating for or soliciting the placing of such insurance.

§27-12-16. Common ownership, management and directorships.

(a) Any insurer may retain, invest in or acquire, the whole or any part of, the capital stock of any other insurer, or insurers, or have a common management with any other insurer, or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this title or unless, by reason thereof, the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business.

(b) Any person otherwise qualified may be a director of two or more insurers which are competitors, unless the effect thereof is to lessen substantially competition between insurers generally.

§27-12-17. Collection of premiums or charges when insurance not provided; excess premium or charge.

THIS SECTION WAS AMENDED IN THE 1994 REGULAR SESSION AND IS NOT IN THE CURRENT CODE SUPPLEMENT.

(a) No person shall willfully collect any sum as premium or charge for insurance which insurance is not then provided or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as permitted by this title.

(b) No person shall willfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to the insurance and as specified in the policy in accordance with the applicable classifications and rates as filed with, and approved by, the commissioner or, in cases where classifications, premiums, or rates are not required by this title to be so filed and approved. The premiums and charges shall not be in excess of those specified in the policy and as fixed by the insurer. This section shall not be deemed to prohibit the charging and collection by surplus line brokers licensed under chapter 10 of this title of the amount of applicable state and federal taxes in addition to the premium required by the insurer; nor shall it be deemed to prohibit the charging and collection by a life insurer of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy; nor shall it be deemed to prohibit an Alabama licensed agent from charging a collection fee of up to one and one-half percent per month on unpaid balances for insurance premiums.

§27-12-18. Statement of charges; hearing, order and review thereon.

(a) If the commissioner believes that any person has been engaged, or is engaging, in this state in any unfair method of competition or any unfair or deceptive act or practice expressly prohibited in this trade practices law and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 10 days after the date of the service thereof.

(b) At the hearing, such person shall have an opportunity to be heard and to show cause why an order should not be made by the commissioner requiring such person to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, the commissioner shall permit any person to intervene, appear and be heard at such hearing by counsel or in person.

(c) Provisions of chapter 2 of this title relative to the powers of the commissioner, witnesses, evidence and hearings shall apply as to procedures under this trade practices law, except where in conflict with the express provisions of this trade practices law.

(d) If, after such hearing, the commissioner finds that the method of competition, or the act or practice in question is defined in this chapter and that the person complained of has engaged in such method of competition, act or practice in violation of this chapter, he shall reduce his findings to writing and issue, and cause to be served upon such person, an order requiring such person to cease and desist from engaging in such method of competition, act or practice.

(e) Until the expiration of the time allowed under section 27-2-32 for filing a petition for review, if no such petition has been duly filed within such time, or if a petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the court, the commissioner may, at any time upon such notice and in such manner as he shall deem proper, modify or set aside, in whole or in part, any order issued by him under this section.

(f) After the expiration of the time allowed for filing such a petition for review, if no such petition has been duly filed within such time, the commissioner may, at any time after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest so requires.

(g) A cease and desist order issued by the commissioner under this section shall become final:

(1) Upon the expiration of the time allowed for filing of petition for review, if no such petition has been duly filed within such time; except, that the commissioner may thereafter modify or set aside his order to the extent provided in subsection (e) of this section; or

(2) Upon the final decision of the court if the court directs that the order of the commissioner be affirmed or the petition for review dismissed.

(h) No order of the commissioner pursuant to this trade practices law or order of court to enforce it shall in any way relieve or absolve any person affected by such order from any other liability, penalty or forfeiture under law.

(i) Violation of any such desist order shall be deemed to be, and shall be, punishable as a violation of this title.

(j) This section shall not be deemed to affect or prevent the imposition of any penalty provided by this title or by other law for violation of any other provision of this chapter, whether or not any such hearing is called or held or such desist order issued.

§27-12-19. Service of statements, notices, orders and other processes.

Statements of charges, notices, orders and other processes of the commissioner under this trade practices law may be served by anyone duly authorized by the commissioner, either in the manner provided by law for service of process in civil actions or by registering or certifying and mailing a copy thereof to the person affected by such statement, notice, order or other process at his, or its, residence or principal office or place of business. The verified return by the person so serving such statement, notice, order or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order or other process, registered or certified and mailed as aforesaid, shall be proof of the service of the same.

§27-12-20. Review of commissioner's cease and desist orders.

Any person required by an order of the commissioner under section 27-12-18 to cease and desist from engaging in any unfair method of competition or any unfair or deceptive act or practice defined in this trade practices law may obtain a review of such order by filing an appeal therefrom in accordance with the provisions and procedures for appeals from the orders of the commissioner in general under section 27-2-32. To the extent that the commissioner's order is affirmed on such review, the court shall issue its own order commanding obedience to the terms of the commissioner's order.

§27-12-21. Proceedings on unfair competition, etc., not defined under chapter – Generally.

(a) Whenever the commissioner has reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition, or in any act or practice in the conduct of such business which is not defined in this trade practices law, that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 10 days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided for in section 27-12-18. The commissioner shall, after such hearing, make a report in writing in which he shall state his findings as to the facts, and he shall serve a copy thereof upon such person.

(b) If such report charges a violation of this trade practices law and if such method of competition, act or practice has not been discontinued, the commissioner may, through the attorney general of this state, at any time after 30 days after the service of such report, cause a petition to be filed in the circuit court of this state, within the circuit wherein the person resides or has his principal place of business, to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

(c) A transcript of the proceedings before the commissioner, including all evidence taken, and the report and findings shall be filed with such petition. If either party applies to the court for leave to adduce additional evidence and shows, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner, the court may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings with the return of such additional evidence.

(d) If the court finds that the method of competition complained of is unfair or that the act or practice complained of is unfair or deceptive, that the proceeding by the commissioner with respect thereto is to the interest of the public and that the findings of the commissioner are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

§27-12-22. Same -- Appeal by intervenor.

If the report of the commissioner under section 27-12-21 does not charge a violation of this chapter, then any intervenor in the proceedings may, within 30 days after the service of such report, cause a notice of appeal to be filed in the circuit court of Montgomery county for a review of such report. Upon such review, the court shall have authority to issue appropriate orders and judgments in connection therewith, including, if the court finds that it is to the interest of the public, orders enjoining and restraining the continuance of any method of competition, act or practice which it finds, notwithstanding such report of the commissioner, constitutes a violation of this trade practices law. Subsection (c) of section 27-12-21 shall apply as to any such review.

§27-12-23. False statements, etc., in insurance application.

No agent, broker, solicitor, examining physician or other person shall knowingly make a false or fraudulent statement or representation in, or relative to, an application for insurance. Violations of this section shall be punishable under section 27-1-12.

§27-12-24. Refusal of insurer to pay or settle claims.

No insurer shall, without just cause, refuse to pay or settle claims arising under coverages provided by its policies in this state and with such frequency as to indicate a general business practice in this state, which general business practice is evidenced by:

- (1) A substantial increase in the number of complaints against the insurer received by the insurance department;
- (2) A substantial increase in the number of lawsuits against the insurer or its insureds by claimants; and
- (3) Other relevant evidence.

§27-13-1. Purpose of chapter; construction thereof.

The purpose of this chapter is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory and to authorize and regulate cooperative action among insurers in rate-making and in other matters within the scope of this chapter. Nothing in this chapter is intended:

- (1) To prohibit or discourage reasonable competition; or
- (2) Prohibit or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices.

This chapter shall be liberally interpreted to carry into effect the provisions of this section.

§27-13-2. Administration of laws relating to rates and rating systems.

The commissioner is charged with the duty of the administration of all laws now relating, or hereafter relating, to insurance rates and rating systems of all companies authorized to do business in the state of Alabama, with the exception of rates of life and health and accident business and rates of title insurance.

§27-13-3. Filing of data or information by insurers.

The commissioner shall have authority to require any insurer engaged in any of the businesses in Alabama as enumerated in this article to file with the department any data or information required or necessary in the performance of the duties of the commissioner, said data or information to be filed in such manner and on such forms as may be prescribed by said commissioner.

§27-13-4. Rules and regulations.

The commissioner shall, from time to time, promulgate such rules and regulations as he may deem necessary to carry out the provisions of this article and, upon request, shall furnish to any interested party a copy of such rules and regulations.

§27-13-5. Disposition of licenses collected from rating organizations.

Any licenses collected from any rating organization by the commissioner shall be paid into the treasury of the state of Alabama.

§27-13-6. Short title.

This chapter may be referred to as "The Rating Law."

§27-13-20. Definitions.

For the purposes of this article, unless otherwise stated, the following terms shall have the meanings respectively ascribed to them by this section.

(1) **RATE.** The unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium.

(2) **PREMIUM.** The consideration paid, or to be paid, to an insurer for the issuance and delivery of any binder or policy of insurance.

(3) **RATE-MAKING.** The examination and analysis of every factor and influence related to, and bearing upon, the hazard and risk made the subject of insurance, the collection and collation of such factors and influences into rating systems and the application of such rating systems to individual risks.

(4) **RATING SYSTEM.** Every schedule, class, classification, rule, guide, standard, manual, table, rating plan, policy, policy form or compilation, by whatever name described, containing the rates used by any rating organization or by any insurer or used by any insurer or by any rating organization in determining or ascertaining a rate.

(5) **RATING ORGANIZATION.** Every person or persons, corporation, partnership, company, society, bureau or association, whether located within or outside this state, engaged in the business of rate-making for two or more insurers.

(6) **INSURER.** Any person or persons, corporation, association, partnership, reciprocal exchange or company authorized by the laws of this state to transact the business of insurance in this state.

(7) **RISK.** Any property, real or personal, described in any policy, exposed to any hazard or peril named in such policy.

(8) **UNREASONABLY HIGH RATES.** No rate shall be held to be unreasonably high unless:

a. Such rate is unreasonably high for the insurance provided; and

b. A reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable.

(9) **INADEQUATE RATE.** No rate shall be held to be inadequate which upon reasonable assumptions of prospective loss and expense experience will produce an underwriting profit.

§27-13-21. Applicability of article – Generally.

The provisions of this article shall apply to insurance against loss to property located in this state, or to any valuable interest therein, by fire, lightning, windstorm, explosion or by theft or physical damage to motor vehicles and all other kinds of insurance which fire insurance companies are authorized to write in this state, except this article shall not apply to reinsurance, aviation insurance and marine insurance, which term shall mean, and include, insurance and reinsurance against any, and all, kinds of loss or damage to the following subject matters of insurance and interests therein:

- (1) Hulls, vessels and craft of every kind;
- (2) Aids to navigation;
- (3) Dry docks and marine railways, including marine builders' and repairers' risks, and whether complete or in process of, or awaiting, construction;
- (4) All marine protection and indemnity risks; and
- (5) All goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interest and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit or transportation on or under any seas, lakes, rivers or other waters, or in the air or on land in connection with, or incident to, export, import or waterborne risks, or while being assembled, packed, crated, baled, compressed or similarly prepared for such shipment, or while awaiting the same, or during any delays, storage, transshipment or reshipment incident thereto, including the insurance of war risks in respect to any or all of the aforesaid subject matters of insurance.

The provisions of this article shall, however, apply to inland marine insurance in the manner provided in section 27-13-22.

§27-13-22. Same – Inland marine insurance.

The provisions of this section shall apply to all insurance which is now or hereafter defined by statute, by ruling of the commissioner or by lawful custom as inland marine insurance, but this article shall not apply to insurance of vessels or craft, their cargoes, marine builder's risks, marine protection and indemnity or other risks commonly insured under marine insurance policies:

- (1) As to all classes of inland marine insurance for which class rates or rating plans are customarily fixed by rating organizations or associations of underwriters, rates or rating plans shall be filed by all authorized insurers writing such classes, with the department in such manner and form as it shall direct, and also special rates fixed by any such rating organization or association shall be

similarly filed. All such rates shall be reasonable, adequate and not unfairly discriminatory. Due consideration shall be given to past experience within the state and outside the state when necessary, and due consideration may be given to prospective loss experience within the state and without when necessary, including catastrophe hazards, to a reasonable margin for profit and contingencies, to policyholders' dividends in the case of participating insurers and to all other relevant factors within the state and without the state when necessary;

(2) Any filing made pursuant to this section shall be approved by the commissioner unless he finds that such filing does not meet the requirements of this section. As soon as reasonably possible after the filing has been made, the commissioner shall in writing approve or disapprove the same; provided, however, that any filing of class rates, special rates or rating plans shall be deemed approved unless disapproved within 30 days. The commissioner may investigate rates not required to be filed under the provisions of this section and may require the filing of any particular rate not otherwise required to be filed; and

(3) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the department to accept such filings on its behalf. An insurer may belong or subscribe to an inland marine rating organization for inland marine insurance and also to other rating organizations for other types of insurance.

§27-13-23. Same -- Exemptions.

Nothing in this article shall apply to any town or county farmers' mutual fire insurance association restricting their operations to not more than one county or to domestic insurance companies, associations, orders or fraternal benefit societies now doing business in this state on the assessment plan.

§27-13-24. Rating organizations -- License; application therefor; renewal thereof; fee for same.

(a) No rating organization shall do business in this state unless it shall have been licensed to do so by the commissioner. Application for such license shall be made on such forms as the commissioner shall prepare for that purpose. Upon applying for such license, every rating organization shall file with the department:

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws or rules governing the conduct of its business or such of the foregoing, if any, as such rating organization may have;

(2) A list of insurers who are, or who have agreed to become, members of, or subscribers to, such rating organization;

(3) The name and address of a person, or persons, in this state upon whom notices or orders of the commissioner affecting such rating organization may be served; and

(4) Such other information as the commissioner may require.

(b) If the commissioner finds that the applicant for a license:

- (1) Has complied with the provisions of this article;
- (2) Is equipped with an adequate staff of experts and clerks qualified in rate-making;
- (3) Is otherwise qualified to function as a rating organization; and
- (4) Maintains necessary service offices throughout Alabama beginning with at least three, viz: one in Mobile, Montgomery and Birmingham, he shall issue a license to such rating organization authorizing it to engage in rate-making for the kinds of insurance specified in such license.

(c) The service offices described in the preceding sentence shall be adequately staffed and equipped and keep on hand a complete supply of all forms, clauses, permits, rules and such other information and data as the commissioner may prescribe for writing fire insurance in such territory. These service offices are, however, not to be required in the handling of any types of insurance serviced by special organizations. Such offices are to be kept open on all customary business days. Rating organizations having a membership of less than 25 members shall not be required to maintain such offices unless the department shall require same. If the commissioner shall determine that the applicant is not entitled to a license, he shall make an order denying its application, specifying his reasons for such denial. Licenses issued pursuant to this section shall be renewed on or before July 1, of each year in the manner provided by this article. Every rating organization doing business in the state on January 1, 1972, may continue to transact such business thereafter, subject to the provisions of this article, pending its application to the department, to be made within 180 days after January 1, 1972, for a license to do business as required by this section. A fee of \$25.00 shall be paid annually to the department for such license issued under this section.

§27-13-25. Same -- Provisions for insurers to become members or subscribers.

Every rating organization shall make reasonable provision in its bylaws, rules, constitution or otherwise to permit any insurer engaged in the kind of insurance for which rate-making is done by such rating organization to become a member or subscriber thereof upon application therefor by such insurer. An insurer may be a member of, or a subscriber to, more than one rating organization, but not for the purpose of rating the same risk. No insurer shall use any rate or rating systems made by a rating organization of which it is not a member or subscriber or by another insurer. No rating organization shall discriminate unfairly between insurers in the conditions imposed for admission as subscribers or in the services rendered to either members or subscribers. The refusal of any rating organization to admit an insurer as a subscriber shall, at the request of such insurer, be reviewed by the commissioner at a hearing held upon at least 10 days' notice to such rating organization and such insurer. If the commissioner shall find that the insurer has been refused admittance to such rating organization as a subscriber without justification, he shall make an order directing such rating organization to admit such insurer as a subscriber. If he shall find that the action of the rating organization in refusing admittance to an insurer as a subscriber is justified, he shall make an order affirming its action.

§27-13-26. Same -- Withdrawal, expulsion and readmission of members or subscribers.

Every rating organization shall notify the department within 10 days upon the withdrawal or expulsion therefrom of any member or subscriber. Should a rating organization expel or otherwise exclude a subscriber for the refusal or failure of such subscriber to pay such rating organization the subscribership fee agreed upon, such rating organization shall readmit such subscriber upon payment to it of any delinquent charges. No insurer shall, after expulsion or withdrawal from a rating organization, use any rate or rating system made by such rating organization during the period that such expulsion or withdrawal continues.

§27-13-27. Rate-making and making rating systems.

Every rating organization and every insurer which makes its own rates shall make rates that are not unreasonably high or inadequate for the safety and soundness of the insurer and which do not unfairly discriminate between risks in this state involving essentially the same hazards and shall, in rate-making and in making rating systems:

(1) Adopt basis classifications, which shall be used as the basis of all manual, minimum, class, schedule or experience rates;

(2) Adopt reasonable standards for construction, for protective facilities and for other conditions that materially affect the hazard or peril, which shall be applied in the determination or fixing of rates;

(3) Give consideration to past experience within the state and without the state when necessary, and due consideration may be given to prospective loss experience within the state and without the state when necessary, over such period of years as appears to be fairly representative of the frequency of the occurrence of the particular hazard or peril, including, where pertinent, the conflagration and catastrophe hazards, if any; and

(4) Give consideration to all factors reasonably related to the kind of insurance involved, including a reasonable profit for the insurer and, in the case of participating insurers, to policyholders' dividends. In the case of fire insurance, consideration shall be given to the latest available experience of the fire insurance business, other than fire insurance covering motor vehicles, during a period of not less than five years preceding the year in which rates are made or revised.

§27-13-28. Annual statistical reports of insurers.

Every insurer shall file annually, on or before July 1, with the rating organization of which it is a member or subscriber, or with such other common agency representing a group of insurers as the department may approve, and with the department a statistical report showing a classification schedule of its premiums and its losses on all kinds of insurance to which this article is applicable, together with such other information as the department may deem necessary for the proper determination of the reasonableness and adequacy of rates. Such statistical report filed with the rating organization may be consolidated and filed by such common agency. Such data shall be kept and reports made in such manner

and on such forms as may be prescribed by the commissioner. All such annual filings with the department shall be kept under lock and key, and any official or employee of the department who shall divulge the contents or permit the examination thereof, except for the purpose of properly administering the provisions of this article or upon the order of court, shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$50.00, and shall thereafter be ineligible to be an employee or agent of said department. A mutual fire insurance company or reciprocal fire exchange which confines its business chiefly to the insurance of sprinklered risks and which pays no commission or brokerage for the acquisition of business shall be deemed to comply with the provisions of this section if it files its statistical reports of premium deposits and losses on the basis of comprehensive coverage.

§27-13-29. Filing of rating systems with department by insurers -- Requirement.

Beginning 180 days after January 1, 1972, every insurer shall, before using or applying any rate to any kind of insurance coming within the scope of this article, file with the department a copy of the rating system upon which such rate is based or by which such rate is fixed or determined. The filing required in this section may be made on behalf of such insurer by a rating organization of which such insurer is a member or subscriber. The provisions of this section shall be deemed to have been complied with by any insurer which had, before January 1, 1972, been a member or subscriber of a rating organization doing business in the state. From and after the date of the filing of such rating systems, every insurer shall charge and receive rates fixed or determined in strict conformity therewith, except as in this article otherwise expressly provided.

§27-13-30. Same -- Examination and approval or disapproval by commissioner.

If, after examination thereof, the commissioner shall find that such rating systems filed by, or on behalf of, an insurer provide for, result in or produce rates that are unreasonably high or excessive, or are not adequate for the safeness and soundness of the insurer or are unfairly discriminatory between risks in this state involving essentially the same hazards, he shall issue an order to such insurer, or to the rating organization of which such insurer is a member or subscriber, directing that such rating systems be altered in the manner, and to the extent, stated in such order to produce rates that are reasonable and adequate and not unfairly discriminatory. If the commissioner shall find that such rating systems provide for, result in or produce rates that are not unreasonably high, are not inadequate for the safeness and soundness of the insurer and are not unfairly discriminatory between risks in this state involving essentially the same hazards, he shall approve such rating systems, and such approval shall continue in effect until he shall, by order, direct that such rating systems be changed or modified as in this section provided. As soon as reasonably possible after the filing has been made the commissioner shall, in writing, approve or disapprove the same; provided, however, that unless disapproved within 30 days, such rating systems shall be deemed to be approved by him. Whenever the commissioner shall find that rating systems theretofore approved by him, or which pursuant to section 27-13-37 are effective without approval, provide for, result in or produce rates

which are unreasonable or inadequate or which discriminate unfairly between risks in this state involving essentially the same hazards, he shall issue an order to all insurers employing such rating systems, or to the rating organizations of which such insurers are members or subscribers, directing that such rating systems be altered or revised in the manner, and to the extent, stated in such order to provide for, result in or produce rates which are reasonable, adequate and do not discriminate unfairly between risks in this state involving essentially the same hazards. Rating systems filed with the department on, or before, January 1, 1972, pursuant to the provisions of this section shall be deemed to have been approved by the commissioner, such approval to continue in effect until the commissioner shall, by order, direct that such rating system be altered or modified as in this section provided. Changes in rates resulting from an order of the commissioner directing or approving alterations or revisions in rating systems shall become effective following the date of such order as fixed by the commissioner and shall be applied to policies written on, or after, such effective date. Under such rules and regulations as he shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance subdivision, or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate or unfairly discriminatory.

§27-13-31. Survey of risks rated upon schedule.

Every rating organization, and every insurer which does its own rate-making, shall keep in its office a written survey of every risk rated upon schedule after inspection and shall, upon request, furnish a copy of such survey to the interested insured or his duly authorized representative.

§27-13-32. Hearings on applications to reduce rates.

Every rating organization, and every insurer which does its own rate-making, shall provide reasonable means within this state, to be approved by the department, whereby any person, or persons, affected by rate made by it may be heard on an application to reduce such rate. If such rating organization or such insurer shall refuse to reduce such rate, the person or persons affected thereby may make a like application to the commissioner within 30 days after receipt of notice in writing that the application for reduction of rate has been denied by such rating organization or by such insurer. If, upon the expiration of 20 days after application for the reduction of a rate, such rating organization or such insurer fails to grant or reject the application, the person, or persons, affected may make the application to the commissioner in the same manner as if the application had been rejected by such rating organization or by such insurer. The commissioner shall fix a time and place for hearing on such application, upon not less than 10 days' notice by registered or certified mail, for the applicant and such rating organization or such insurer to be heard. The commissioner shall make such order as he shall deem just and lawful upon the evidence placed before him at such hearing.

§27-13-33. Applications for uniform percentage increase or decrease of rates by insurers.

Any insurer may apply to the commissioner for permission to effect a uniform percentage increase or decrease in the rates applied to all risks of a particular class in the state in a particular kind, or kinds, of insurance. Upon the filing of such application, the commissioner shall give notice thereof by registered or certified mail to the rating organization, if any, of which such insurer is a member or subscriber and shall fix a time and place for a hearing upon the merits of such application. At such hearing, such insurer and such rating organization, or their representatives, shall be entitled to be heard and to present evidence in support of, or against, such application. The commissioner shall, upon the conclusion of such hearing, make such order as he shall deem consistent with the establishment and maintenance of reasonable, adequate and non-discriminatory rates. If the application is granted, such increase or decrease shall remain in force unless withdrawn by the insurer with the consent of, or by order of, the commissioner. If the commissioner shall find that such increase or decrease will result in rates that are unreasonable, inadequate or unfairly discriminatory, he shall make an order denying the application. Notwithstanding the foregoing, but subject to the provisions of section 27-13-30, to the extent not inconsistent therewith, when a filing of adjustments of rates for existing rating systems is made under this section and does not involve a change in the relationship between such rates and the expense portion thereof or does not involve a change of the element of expenses which are paid as a percentage of premiums and does not involve a change in rate relativities among such classifications on any basis other than loss experience, such filing shall become effective upon the date, or dates, specified in the filing and shall be deemed to meet the requirements of this title. A rate in excess of that promulgated by such rating organization may be charged on any specific risk provided such higher rate is charged with the knowledge and written consent of both the insured and the commissioner.

§27-13-34. Approval of rates and forms for insuring special types or classes of risks.

Any insurer, individually or as a member of a pool, group or association, engaged in the business of insuring special types or classes of risks in connection with a particular inspection or engineering service or with respect to which a set of standards has been maintained to the satisfaction of the commissioner may submit its loss experience data, forms and proposed rates and negotiate with the commissioner for his approval of such rates and forms either directly in its own behalf or through a unified facility of the group created, licensed as a rating organization and maintained entirely or in part for such purpose. In evaluating the forms and rates of such an insurer, or pool or association of insurers, the commissioner shall act with due regard for the previous record of such insurer or group of insurers and with due appreciation of previous and prospective loss trends, both within and outside the state, and to any other factors reasonably related to the classes or types of insurance written by such insurer or group of insurers. If approved, such forms and rates shall be filed with the rating organization, licensed to make rates on such types or classes of risks, of which such insurer is a member or subscriber. Nothing contained in this section shall be construed as exempting any insurer, pool, group or association of insurers from all other provisions of this article.

§27-13-35. Factors to be considered by commissioner in determining reasonableness, etc., of rates.

In every case where, pursuant to the provisions of this article, the commissioner is authorized or required to determine whether rates are reasonable and adequate and not unfairly discriminatory, he shall consider:

(1) The factors applied by insurers and rating organizations generally in determining the bases for rates;

(2) The financial condition of the insurer;

(3) The method of operation of such insurer;

(4) The past loss experience of the insurer within the state and without the state when necessary and may give consideration to prospective loss experience within the state and without the state when necessary, over such period of years as shall appear to be fairly representative of the frequency of the occurrence of the particular hazard or peril, including, where pertinent, the conflagration and catastrophe hazards, if any;

(5) All factors reasonably related to the kind of insurance involved; and

(6) A reasonable profit for the insurer and, in the case of participating insurers, to policyholders' dividends.

In the case of fire insurance, he shall consider the latest available experience of the fire insurance business, other than fire insurance covering motor vehicles, during a period of not less than five years preceding the year in which such rates are reviewed by him.

§27-13-36. Examination of business, etc., of rating organizations and insurers making own rates.

The commissioner may, whenever he deems it expedient, but at least once in every five years, make, or cause to be made, an examination of the business, affairs and method of operation of every rating organization doing business in this state and a like examination of an insurer making its own rates. The cost of such examination shall be fixed in the same manner as provided for in this title and shall be paid by the rating organization or insurer making its own rates being examined. The commissioner may, in his discretion, waive such examination upon proof that such rating organization has, within a reasonably recent period, been examined by a public official or department of another state pursuant to the laws of such state and upon the filing with the department of a certified copy of the report of such examination. The officers, managers, agents and employees of such rating organization or insurer making its own rates shall exhibit all its books, records, documents or agreements governing its method of operation, its rating systems and its accounts for the purpose of such examination. The commissioner, or his representative, may, for the purpose of facilitating and furthering such examination, examine, under oath, the officers, managers, agents and employees of such rating organization or insurer making its own rates.

§27-13-37. Alteration, supplementation and amendment of rating systems.

A rating organization, or any insurer making its own rates, may, with the approval of the commissioner, from time to time, alter, supplement or amend its

rating systems, or any part thereof, by filing with the department copies of such alterations, supplements or amendments, together with a statement of the reason, or reasons, for such alteration, supplement or amendment. If such alteration, supplement or amendment shall have the effect of increasing or decreasing rates, the commissioner shall determine whether the rates as altered thereby are reasonable, adequate and not unfairly discriminatory. If the commissioner shall determine that the rates as so altered are not unreasonably high, or inadequate or unfairly discriminatory, he shall make an order approving them. If he shall find that the rates as altered are unreasonable, inadequate or unfairly discriminatory, he shall issue an order disapproving such alteration, supplement or amendment. Notwithstanding the foregoing, but subject to the provisions of section 27-13-30, to the extent not inconsistent with this section, when a filing of adjustments of rates for existing classifications of risks does not involve a change in the relationship between such rates and the expense portion thereof, or does not involve a change of the element of expenses which are paid as a percentage of premiums or does not involve a change in rate relativities among such classifications on any basis other than loss experience, such filing shall become effective upon the date, or dates, specified in the filing and shall be deemed to meet the requirements of this title.

§27-13-38. Prohibition against premiums not in accord with approved rating systems.

No insurer, or employee thereof, and no broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the respective rating systems on file with, and approved by, the commissioner. No insurer, or employee thereof, and no broker or agent shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends, or other benefits to accrue thereon or any valuable consideration or inducement whatever not specified in the policy of insurance, except to the extent that such rebate, discount, abatement, credit, reduction, favor, advantage or consideration may be provided for in rating systems filed by, or on behalf of, such insurer and approved by the commissioner. No insured named in a policy of insurance, nor any employee of such insured, shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement or reduction of premium or any such special favor, or advantage, or valuable consideration or inducement. Nothing contained in this section shall be construed as prohibiting the payment of commissions or other compensation to regularly appointed and licensed agents and to brokers duly licensed by this state nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused, or unabsorbed, portion of premiums and premium deposits.

§27-13-39. False or misleading information concerning rates.

No insurer, and no officer, agent or employee thereof, shall give false or misleading information to any rating organization of which it is a member or subscriber or to the department which will in any manner affect the proper determination of reasonable, adequate and nondiscriminatory rates.

§27-13-40. Suspension of license or certificate of authority.

Any rating organization which violates any provisions of this article shall be subject to suspension of its license, and any insurer making its own rates which violates any provision of this article shall be subject to suspension of its certificate of authority to do business in this state. Failure of a rating organization, or insurer making its own rates, to comply with the provisions of any order of the commissioner within 30 days after such order, or any extension thereof as the commissioner may, in his discretion, grant shall automatically suspend the license of such rating organization or insurer.

§27-13-41. Order revoking or suspending licenses.

If the commissioner shall find, after due notice and hearing, that any rating organization, insurer, officer, agent or representative thereof has willfully violated any of the provisions of this article, he may issue an order revoking or suspending the license of any such insurer, agent, broker or representative thereof.

§27-13-42. Notices, hearings and orders by commissioner.

The commissioner shall not make any order under the provisions of this article without giving every rating organization and insurer who may be affected thereby reasonable notice and a hearing, if hearing is requested. All hearings provided for in this article shall be held at such time and place as shall be designated in a notice which shall be given in writing by registered or certified mail to such rating organization and insurer, or the officers, agents and representatives thereof, which may be affected thereby, at least 30 days before the date designated therein, which notice shall state the subject of the order. At the conclusion of such hearing, or within 30 days thereafter, the commissioner shall make such order, or orders, as he may deem necessary in accordance with his findings.

§27-13-43. Review of final orders of commissioner.

Any final order made by the commissioner as provided by law may, upon appropriate petition filed by the attorney general on behalf of the state or by any interested party, at any time within 30 days from the date of said order, be reviewed by the circuit court of Montgomery county, Alabama, on a writ of certiorari. Upon the filing of such petition, the petitioner shall file with the register or clerk of said court a bond, with good and sufficient sureties, to be approved by the register or clerk, conditioned to pay all costs which may be assessed against the petitioner in such proceedings. The circuit court of Montgomery county, Alabama, or the court of civil appeals of Alabama, on appeal to it, may affirm said order or modify or repeal the same, in whole or in part. From the judgment of the circuit court of Montgomery county, Alabama, either the state or the interested party taking the appeal may appeal directly to the court of civil appeals of Alabama, within 42 days from the entry of the judgment; the interested party so appealing to the court of civil appeals shall give security for costs of such appeal to be approved by the register or clerk of said court.

§27-13-44. Delegation of authority by commissioner.

Whenever, under the provisions of this article, the commissioner is authorized or required to do any act, he may designate an assistant, or any salaried employee of the department, to act in his place and stead, who shall report to the commissioner and advise the commissioner on the nature of the matter delegated. The commissioner shall make such order, based upon such advice and report, as he shall, in his discretion, determine, and such order shall have the same force and effect as if the commissioner had acted thereon personally.

§27-13-45. Penalty for violation of article.

Any rating organization, any insurer, officer, agent or representative thereof failing to comply with, or otherwise willfully violating, any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, be punished by a fine of not less than \$100.00 nor more than \$500.00.

§27-13-60. Definitions.

For the purposes of this article, unless otherwise stated, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **RATE.** The unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium.

(2) **PREMIUM.** The consideration paid or to be paid to an insurer for the issuance and delivery of any binder or policy of insurance.

(3) **RATE-MAKING.** The examination and analysis of every factor and influence related to and bearing upon the hazard and risk made the subject of insurance; the collection and collation of such factors and influences into rating plans; systems; and the application of such rating systems to individual risks.

(4) **RATING PLAN.** Every schedule, class, classification, rule, guide, standard, manual, table, rating plan, policy, policy form or compilation by whatever name described, containing the rates used by any rating organization or by any insurer, or used by any insurer or by any rating organization in determining and ascertaining a rate.

(5) **RATING ORGANIZATION.** Every person or persons, corporation, partnership, company, society, bureau or association, whether located within or outside this state, engaged in the business of rate-making for two or more insurers.

(6) **INSURER.** Any person or persons, corporation, association, partnership, reciprocal exchange or company authorized by the laws of this state to transact the business of insurance in this state.

(7) **CASUALTY INSURANCE.** As used herein this term is to be construed in its generally accepted trade sense.

(8) **UNREASONABLY HIGH RATE.** No rate shall be held to be unreasonably high unless

a. Such rate is unreasonably high for the insurance provided and

b. A reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable.

(9) **INADEQUATE RATE.** No rate shall be held to be inadequate which upon reasonable assumptions of prospective loss and expense experience will produce an underwriting profit.

§27-13-61. Applicability of article.

The provisions of this article shall apply to all lines of casualty insurance, including workmen's compensation, employer's liability, fidelity, surety and guaranty bonds, and all other kinds of insurance which casualty and surety insurance companies are authorized to write in this state, except reinsurance, aviation insurance and accident and health insurance.

§27-13-62. Rating organizations -- License; application therefor; renewal thereof; fee for same.

No rating organization shall do business in this state until it shall have been licensed to do so by the commissioner. Application for such license shall be made on such forms as the commissioner shall prepare for that purpose. Upon applying for such license, every rating organization shall file with the department:

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws or rules governing the conduct of its business or such of the foregoing, if any, as such rating organization may have;

(2) A list of insurers who are or, who have agreed to, become members of, or subscribers to, such rating organization;

(3) The name and address of a person, or persons, in this state upon whom notices or orders of the commissioner affecting such rating organization may be served; and

(4) Such other information as the commissioner may require.

If the commissioner finds that the applicant for license:

(1) Has complied with the provisions of this article;

(2) Is equipped with an adequate staff of experts and clerks qualified in rate-making; and

(3) Is otherwise qualified to function as a rating organization, he shall issue a license to such rating organization authorizing it to engage in rate-making for the kinds of insurance or subdivision thereof specified in such license.

If the commissioner shall determine that the applicant is not entitled to a license, he shall make an order denying its application, specifying his reasons for such denial. Licenses issued pursuant to this section shall be renewed on, or before, July 1, of each year in the manner provided by this article. Every rating organization doing business in this state on January 1, 1972, may continue to transact such business thereafter, subject to the provisions of this article, pending its application to the department, to be made within 180 days after January 1, 1972, for a license to do business as required by this section. A fee of \$25.00 shall be paid annually to the department for such license issued under this section.

§27-13-63. Same -- Provisions for insurers to become members or subscribers.

Every rating organization shall make reasonable provision in its bylaws, rules, constitution or otherwise to permit any insurer engaged in the kind of insurance for which rate-making is done by such rating organization to become a member or subscriber to its rating services for any kind of insurance, or subdivisions thereof, upon application therefor by such insurer. No rating organization shall discriminate unfairly between insurers in the condition imposed for admission as subscribers or in the services rendered to either members or subscribers. No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers. The refusal of any rating organization to admit an insurer as a subscriber shall, at the request of such insurer, be reviewed by the commissioner at a hearing held upon at least 10 days' notice to such rating organization and such insurer. If the commissioner shall find that the insurer has been refused admittance to such rating organization as a subscriber without justification, he shall make an order directing such rating organization to admit such insurer as a subscriber. If he shall find that the action of the rating organization in refusing admittance to an insurer as a subscriber is justified, he shall make an order affirming its action.

§27-13-64. Same -- Admission, withdrawal, expulsion or readmission of members or subscribers.

Every rating organization shall notify the department within 10 days upon the admission, withdrawal or expulsion therefrom of any member or subscriber. Should a rating organization expel or otherwise exclude a subscriber for the refusal or failure of such subscriber to pay such rating organization the subscribership charges agreed upon, such rating organization shall readmit such subscriber upon payment to it of any delinquent charges.

§27-13-65. Rate-making and making rating plans.

Every rating organization and every insurer which makes its own rates shall make rates that are not unreasonably high or inadequate for the safety and soundness of the insurer and which do not unfairly discriminate between risks in this state and shall, in rate-making and in making rating plans:

(1) Adopt basis classifications, which shall be used as the basis of all manual, minimum, class, schedule or experience rates;

(2) Give consideration to past experience within the state and without the state, when necessary, and due consideration may be given to prospective loss experience within the state and without the state, when necessary, over such period of years as appears to be fairly representative of the frequency of the occurrence of the particular risk; and

(3) Give consideration to all factors reasonably related to the kind of insurance involved, including a reasonable profit for the insurer and, in the case of participating insurers, to policyholders' dividends.

The systems of expense provisions included in the rates for use by insurers or groups of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or any subdivision or combination thereof, for which the commissioner approves the application of separate expense provisions.

§27-13-66. Annual statistical reports of insurers; exchange of information; rules and regulations.

Every insurer shall file annually on, or before, July 1, with the rating organization of which it is a member or subscriber, or with such other common agency representing a group of insurers as the department may approve, and with the department a statistical report showing its premiums and its losses on all kinds of insurance to which this article is applicable, together with such other information as the department may deem necessary for the proper determination of the reasonableness and adequacy of rates. Such statistical report filed with the rating organization may be consolidated and filed by such common agency. Such data shall be kept and reports made in such manner and on such forms as may be prescribed by the commissioner. All such annual filings with the department shall be kept under lock and key, and any official or employee of the department who shall divulge the contents or permit the examination thereof, except for the purpose of properly administering the provisions of this article or upon the order of court, shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$50.00 and shall thereafter be ineligible to be an employee or agent of said department. Reasonable rules and plans may be promulgated by the commissioner, after consultation with all insurers and rating organizations affected thereby, for the interchange of loss experience necessary for the application of rating plans. In order to further uniform administration of rating laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult and cooperate with them with respect to rate-making and the application of rating systems. The commissioner may make reasonable rules and regulations necessary to effect the purposes of this article.

§27-13-67. Filing of rating plans with department by insurers -- Requirement.

Beginning 180 days after January 1, 1972, every insurer shall, before using or applying any rate to any kind of insurance coming within the scope of this article, file with the department a copy of the rating plan upon which such rate is based or by which such rate is fixed or determined. The filing required in this section may be made on behalf of such insurer by a rating organization of which such insurer is a member or subscriber. From and after the date of the filing of such rating plans, every insurer shall charge and receive rates fixed or determined in strict conformity therewith, except as in this article otherwise expressly provided.

§27-13-68. Same -- Examination and approval or disapproval by commissioner.

If, after examination thereof, the commissioner shall find that such rating plans filed by, or on behalf of, an insurer provide for, result in or produce rates that are unreasonably high or excessive, or are not adequate for the safeness and soundness of the insurer or are unfairly discriminatory between risks in this state involving essentially the same risks, he shall issue an order to such insurer, or to the rating organization of which such insurer is a member or subscriber, directing that such rating plans be altered in the manner, and to the extent, stated in such order to produce rates that are reasonable and adequate and not unfairly discriminatory. If the commissioner shall find that such rating plans provide for, result in or produce rates that are not unreasonably high, are not inadequate for the safeness and soundness of the insurer and are not unfairly discriminatory between risks in this state, he shall approve such rating plans and rates, and such approval shall continue in effect until he shall, by order, direct that such rating plans and rates be changed or modified as in this section provided. As soon as reasonably possible after the filing has been made, the commissioner shall, in writing, approve or disapprove the same; provided, however, that unless disapproved within 30 days such rating plans and rates shall be deemed to be approved by him. Whenever the commissioner shall find that rating plans theretofore approved by him or which pursuant to section 27-13-75 are effective without approval, provide for, result in or produce rates which are unreasonable or inadequate or which discriminate unfairly between risks in this state, he shall issue an order to all insurers employing such rating plans, or to the rating organizations of which such insurers are members or subscribers, directing that such rating plans be altered or revised in the manner, and to the extent, stated in such order to provide for, result in or produce rates which are reasonable, adequate and do not discriminate unfairly between risks in this state. Rating plans and rates filed with the department on, or before, January 1, 1972, pursuant to the provisions of this section, shall be deemed to have been approved by the department, such approval to continue in effect until the commissioner shall, by order, direct that such rating system be altered or modified as in this section provided. Changes in rates resulting from an order of the department directing or approving alterations or revisions in rating plans shall become effective following the date of such order as fixed by the commissioner and shall be applied to policies written on, or after, such effective date. Under such rules and regulations as he shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make examination as he may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate or unfairly discriminatory.

§27-13-69. Appeals from decisions of rating organizations.

Any member of, or subscriber to, a rating organization may appeal to the commissioner from the decision of such rating organization in approving or rejecting any proposed change in, or addition to, the filings of such rating organization; and the commissioner shall, after a hearing held on not less than 10 days' written notice to the appellant and to such rating organization, issue an order approving the decision of such rating organization or directing it to give further consideration to such proposal. If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in this article, from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant.

§27-13-70. Furnishing information as to rates.

Every rating organization and every insurer which makes its own rates shall, after receiving written request therefor from the department, furnish to any person affected by a rate made by it, or to the authorized representative of such person, all pertinent information as to such rate.

§27-13-71. Hearings on applications to reduce rates.

Every rating organization and every insurer which does its own rate-making shall provide reasonable means within this state, to be approved by the department, whereby any person, or persons, affected by a rate made by it may be heard on a written application to reduce such rate. If such rating organization or such insurer shall refuse to reduce such rate, the person, or persons, affected thereby may make a like application to the commissioner within 30 days after receipt of notice in writing that the application for reduction of rate has been denied by such rating organization or by such insurer. If, upon the expiration of 20 days after application for the reduction of a rate, such rating organization or such insurer fails to grant or reject the application, the person, or persons, affected may make the application to the commissioner in the same manner as if the application had been rejected by such rating organization or by such insurer. The commissioner shall fix a time and place for hearing on such application, upon not less than 10 days' notice by registered or certified mail, for the applicant and such rating organization or such insurer to be heard. The commissioner shall make such order as he shall deem just and lawful upon the evidence placed before him at such hearing.

§27-13-72. Application for uniform percentage increase or decrease in rates by insurers.

(a) Any insurer may apply to the commissioner for permission to effect a uniform percentage increase or decrease in the rates applied to all kinds of a particular class in the state in a particular kind, or kinds, of insurance. Upon the filing of such application, the commissioner shall give notice thereof by registered or certified mail to the rating organization, if any, of which such insurer is a mem-

ber or subscriber and shall fix a time and place for a hearing upon the merits of such application. At such hearing, such insurer and such rating organization, or their representatives, shall be entitled to be heard and to present evidence in support of, or against, such application. The commissioner shall, upon the conclusion of such hearing, make such order as he shall deem consistent with the establishment and maintenance of reasonable, adequate and nondiscriminatory rates. If the application is granted, such increase or decrease shall remain in force unless withdrawn by the insurer with the consent of, or by order of, the commissioner. If the commissioner shall find that such increase or decrease will result in rates that are unreasonable, inadequate or unfairly discriminatory, he shall make an order denying the application.

(b) Notwithstanding the foregoing, but subject to the provisions of section 27-13-68, to the extent not inconsistent with this section, when a filing of adjustments of rates for existing classifications of risks is made under this section and does not involve a change in the relationship between such rates and the expense portion thereof, or does not involve a change of the element of expenses which are paid as percentage of premiums, and does not involve a change in rate relativities among such classifications on any basis other than loss experience, such filings shall become effective upon the date, or dates, specified in the filing and shall be deemed to meet the requirements of this article.

(c) A rate in excess of that promulgated by such rating organization may be charged on any specific risk, provided such higher rate is charged with the knowledge and written consent of both the insured and the commissioner.

(d) Subsection (b) of this section shall not apply to workmen's compensation or employer's liability insurance.

§27-13-73. Factors to be considered in determining reasonableness, etc., of rates.

In every case where, pursuant to the provisions of the article, the commissioner is authorized or required to determine whether rates are reasonable and adequate and not unfairly discriminatory, he shall consider the factors and standards set forth in section 27-13-65.

§27-13-74. Examination of business, etc., of rating organizations and insurers making own rates.

The commissioner may, whenever he deems it expedient, but at least once in every five years, make, or cause to be made, an examination of the business, affairs and method of operation of each rating organization doing business in this state and a like examination of each insurer making its own rates. The costs of such examination shall be fixed in the same manner as provided for in section 27-2-25 and shall be paid by the rating organization or insurer making its own rates examined. The commissioner may, in his discretion, waive such examination upon proof that such rating organization has, within a reasonably recent period, been examined by a public official or department of another state, pursuant to the laws of such state, and upon the filing with the department of a certified copy of the report of such examination. The officers, managers, agents and employees of

such rating organization or insurer making its own rates shall exhibit all its books, records, documents or agreements governing its method of operation, its rating systems and its accounts for the purpose of such examination. The commissioner, or his representative, may, for the purpose of facilitating and furthering such examination, examine, under oath, the officers, managers, agents and employees of such rating organization or insurer making its own rates.

§27-13-75. Alteration, supplementation and amendment of rating plans.

A rating organization or any insurer making its own rates may, with the approval of the commissioner, from time to time, alter, supplement or amend its rating plans, or any part thereof, by filing with the department copies of such alterations, supplements or amendments, together with a statement of the reason, or reasons, for such alteration, supplement or amendment. If such alteration, supplement or amendment shall have the effect of increasing or decreasing rates, the commissioner shall determine whether the rates as altered thereby are reasonable, adequate and not unfairly discriminatory. If the commissioner shall determine that the rates as so altered are not unreasonably high, or inadequate or unfairly discriminatory, he shall make an order approving them. If he shall find that the rates as altered are unreasonable, inadequate or unfairly discriminatory, he shall issue an order disapproving such alteration, supplement or amendment. Notwithstanding the foregoing, but subject to the provisions of section 27-13-68, to the extent not inconsistent with this section, when a filing of adjustments of rates for existing classifications of risks does not involve a change in the relationship between such rates and the expense portion thereof, or does not involve a change of the element of expenses which are paid as a percentage of premiums or does not involve a change in rate relativities among such classifications on any basis other than loss experience, such filing shall become effective upon the date, or dates, specified in the filing and shall be deemed to meet the requirements of this article. The foregoing provisions shall not apply to workmen's compensation and employers' liability insurance.

§27-13-76. Prohibition against premiums not in accord with approved rating systems.

No insurer, or employee thereof, and no broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the respective rating systems on file with, and approved by, the commissioner. No insurer, or employee thereof, and no broker or agent shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon or any valuable consideration or inducement whatever not specified in the policy of insurance, except to the extent that such rebate, discount, abatement, credit, reduction, favor, advantage or consideration may be provided for in rating systems filed by, or on behalf of, such insurer and approved by the commissioner. No insured named in a policy of insurance nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement or reduction of premium, or any such special favor or advantage, or valuable consideration or inducement. Nothing contained in this section shall be

construed as prohibiting the payment of commissions or other compensation to regularly appointed and licensed agents and to brokers duly licensed by this state nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits.

§27-13-77. False or misleading information concerning rates.

No insurer and no officer, agent or employee thereof shall give false or misleading information to any rating organization of which it is a member or subscriber or to the department which will in any manner affect the proper determination of reasonable, adequate and nondiscriminatory rates.

§27-13-78. Suspension of license or certificate of authority.

Any rating organization which violates any provision of this article shall be subject to suspension of its license, and any insurer making its own rates which violates any provisions of this article shall be subject to suspension of its certificate of authority to do business in this state. Failure of a rating organization or an insurer making its own rates to comply with the provisions of any order of the commissioner within 30 days after such order, or any extension thereof, as the commissioner may, in his discretion, grant shall automatically suspend the license of such rating organization or insurer.

§27-13-79. Order revoking or suspending license.

If the commissioner shall find, after due notice and hearing, that any rating organization, insurer, officer, agent or representative thereof has willfully violated any of the provisions of this article, he may issue an order revoking or suspending the license of any such insurer, agent, broker or representative thereof.

§27-13-80. Notices, hearings and orders by commissioner.

The commissioner shall not make any order under the provisions of this article without giving every rating organization and insurer who may be affected thereby reasonable notice and a hearing, if hearing is requested. All hearings provided for in this article shall be held at such time and place as shall be designated in a notice which shall be given in writing by registered or certified mail to such rating organization and insurer, or the officers and agents and representatives thereof, which may be affected thereby, at least 30 days before the date designated therein, which notice shall state the subject of the order. At the conclusion of such hearing, or within 30 days thereafter, the commissioner shall make such order, or orders, as he may deem necessary in accordance with his findings.

§27-13-81. Review of final orders of commissioner.

Any final order made by the commissioner as provided by law may, upon appropriate petition filed by the attorney general on behalf of the state or by any interested party at any time within 30 days from the date of said order, be reviewed by the circuit court of Montgomery county, Alabama, on a writ of certiorari. Upon the filing of such petition, the petitioner shall file with the register or clerk

of said court a bond, with good and sufficient sureties, to be approved by the register or clerk, conditioned to pay all costs which may be assessed against the petitioner in such proceedings. The circuit court of Montgomery county, Alabama, or the court of civil appeals of Alabama, on appeal to it, may affirm said order or modify or repeal the same, in whole or in part. From the judgment of the circuit court of Montgomery county, Alabama, either the state or the interested party taking the appeal may appeal directly to the court of civil appeals of Alabama within 42 days from the entry of the judgment; the interested party so appealing to the court of civil appeals shall give security for the costs of such appeal to be approved by the register or clerk of said court.

§27-13-82. Delegation of authority by commissioner.

Whenever, under the provisions of this article, the commissioner is authorized or required to do any act, he may designate an assistant or any salaried employee of the department to act in his place and stead, who shall report to the commissioner and advise the commissioner on the nature of the matter delegated. The commissioner shall make such order, based upon such advice and report, as he shall, in his discretion, determine, and such order shall have the same force and effect as if the commissioner had acted thereon personally.

§27-13-83. Penalty for violation of article.

Any rating organization, and any insurer, officer, agent or representative thereof, failing to comply with, or otherwise willfully violating, any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, be punished by a fine of not less than \$100.00 nor more than \$500.00.

§27-13-100. "Advisory organization" defined.

"Advisory organization" means every group, association or other organization of insurers, whether located within or without this state, which assists insurers which make their own filings or rating organizations in rate-making by collection and furnishing of loss or expense statistics or by the submission of recommendations, but which does not make filings under articles 2 or 3 of this chapter.

§27-13-101. Compliance with article and rules, etc., of commissioner.

Every advisory organization assisting any rating organization or any insurer whose rates are subject to regulation under article 2 of this chapter or any rating organization or any insurer whose rates are subject to regulation under article 3 of this chapter, as a condition precedent to the rendering of such assistance, shall comply with the provisions of this article and any, and all, duly promulgated rules or regulations or orders of the commissioner relative to insurance rates, rate-making or assistance therein.

§27-13-102. Filing with commissioner; orders by commissioner against unfair practices, etc., or violations.

(a) Every advisory organization shall file with the commissioner:

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation and its bylaws, rules and regulations governing its activities;

(2) A list of its members;

(3) The name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at his direction may be served; and

(4) An agreement that the commissioner may examine such advisory organization in accordance with the provisions of this section.

(b) If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of articles 2 or 3 of this chapter, as the case may be, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of articles 2 or 3 of this chapter and requiring the discontinuance of such act or practice.

(c) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate-making recommendations furnished to it by an advisory organization which has not complied with this article or with an order of the commissioner involving such statistics or recommendations issued under subsection (b) of this section. If the commissioner finds such insurer or rating organization to be in violation of this subsection, he may issue an order requiring the discontinuance of such violation.

§27-13-103. Advisory organizations deemed subject to examination.

(a) Every advisory organization rendering assistance to a rating organization or to an insurer whose rates are subject to regulation under article 2 of this chapter shall agree to be subject to examination in the same manner, and upon the same terms and conditions, as rating organizations and insurers making their own rates are pursuant to section 27-13-36.

(b) Every advisory organization rendering assistance to a rating organization or to an insurer whose rates are subject to regulation under article 3 of this chapter shall agree to be subject to examination in the same manner, and upon the same terms and conditions, as rating organizations and insurers making their own rates are pursuant to section 21-13-74.

§27-13-104. Enforcement and administration of article.

The commissioner is authorized, and directed, to enforce this article, and he is hereby authorized to make such orders, rules and regulations as are reasonable and proper to facilitate the administration hereof.

§27-13-105. Construction of article.

The provisions of this article are supplemental and shall be construed in pari materia with other laws relating to insurance rates and rate-making.

§27-14-1. Definitions.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **POLICY.** A written contract of, or written agreement for, or effecting, insurance, by whatever name called, and includes all clauses, riders, endorsements and papers attached, or issued, and delivered for attachment thereto and made a part thereof.

(2) **PREMIUM.** The consideration for insurance, by whatever name called. Any "assessment" or any "membership," "policy," "survey," "inspection," "service" or similar fee or charge in consideration for an insurance contract is deemed part of the premium.

§27-14-2. Applicability of chapter.

This chapter applies as to all insurance contracts and annuity contracts other than:

- (1) Reinsurance;
- (2) Policies or contracts not issued for delivery in this state nor delivered in this state;
- (3) Wet marine and transportation insurance; and
- (4) Title insurance, except as to the following provisions:
 - a. Section 27-14-5;
 - b. Section 27-14-8;
 - c. Section 27-14-9;
 - d. Section 27-14-13;
 - e. Section 27-14-14; and
 - f. Section 27-14-17.

§27-14-3. Insurable interest -- Personal insurance.

(a) Insurable interest with reference to personal insurance is an interest based upon a reasonable expectation of pecuniary advantage through the continued life, health or bodily safety of another person and consequent loss by reason of his death or disability or a substantial interest engendered by love and affection in the case of individuals closely related by blood or by law.

(b) An individual has an unlimited insurable interest in his own life, health and bodily safety and may lawfully take out a policy of insurance on his own life, health or bodily safety and have the same made payable to whomsoever he

pleases, regardless of whether the beneficiary so designated has an insurable interest.

(c) An insurable interest must exist at the time the contract of personal insurance becomes effective, but this requirement need not exist at the time the loss occurs.

(d) Any personal insurance contract procured, or caused to be procured, upon another individual is void unless the benefits under such contract are payable to the individual insured, or his personal representative, or to a person having, at the time when such contract was made, an insurable interest in the individual insured. In the case of such void contract, the insurer shall not be liable on the contract but shall be liable to repay to such person, or persons, who have paid the premiums, all premium payments without interest.

§27-14-4. Same – Property insurance.

(a) No contract of insurance of property or of any interest in property, or arising from property, shall be enforceable as to the insurance except for the benefit of persons having an insurable interest in the things insured as at the time of the loss.

(b) "Insurable interest," as used in this section, means any actual, lawful and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction or pecuniary damage or impairment.

(c) The measure of an insurable interest in property is the extent to which the insured might be damaged by loss, injury or impairment thereof.

§27-14-5. Power to contract; purchase of insurance by or for minors.

(a) Any person of competent legal capacity may contract for insurance.

(b) Any minor of the age of 15 years or more, as determined by the nearest birthday, may, notwithstanding his minority, contract for annuities or for insurance upon his own life, body, health, property, liabilities or other interests or on the person of another in whom the minor has an insurable interest. Such a minor shall, notwithstanding such minority, be deemed competent to exercise all rights and powers with respect to, or under:

(1) Any contract for annuity or for insurance upon his own life, body or health; or

(2) Any contract such minor effected upon his own property, liabilities or other interests or on the person of another, as might be exercised by a person of full legal age, and may at any time surrender his interest in any such contracts and give valid discharge for any benefit accruing or money payable thereunder.

Such a minor shall not, by reason of his minority, be entitled to rescind, avoid or repudiate the contract nor to rescind, avoid or repudiate any exercise of a right or privilege thereunder; except, that such a minor, not otherwise emancipated, shall not be bound by any unperformed agreement to pay by

promissory note or otherwise, any premium on any such annuity or insurance contract.

(c) Any annuity contract or policy of life or disability insurance procured by or for a minor under subsection (b) of this section, shall be made payable either to the minor or his estate or to a person having an insurable interest in the life of the minor.

§27-14-6. Application for policy -- Requirement; reliance by insurer; admissibility into evidence; alterations.

(a) No life or disability insurance contract upon an individual, except a contract of group life insurance or of group or blanket disability insurance, shall be made or effectuated unless at the time of the making of the contract the individual insured, being of competent legal capacity to contract, applies therefor or has consented thereto, except in the following cases:

(1) A spouse may effectuate such insurance upon the other spouse;

(2) Any person having an insurable interest in the life of a minor or any person upon whom a minor is dependent for support and maintenance may effectuate insurance upon the life of, or pertaining to, such minor; and

(3) Family policies may be issued insuring any two or more members of a family on an application signed by either parent, a stepparent or by a husband or wife;

(b) An insurer shall be entitled to rely upon all statements, declarations and representations made by an applicant for insurance relative to the insurable interest which such applicant has in the insured, and no insurer shall incur any legal liability except as set forth in the policy by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

(c) As to kinds of insurance other than life or disability insurance, no application for insurance signed by, or on behalf of, the insured shall be admissible in evidence in any action between the insured and the insurer arising out of the policy so applied for if the insurer has failed, at expiration of 30 days after receipt by the insurer of written demand therefor by, or on behalf of, the insured, to furnish to the insured a copy of such application reproduced by any legible means.

(d) No alteration of any written application for any life or disability insurance policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant; provided, however, an insurer may prepare and attach to a contract of life or disability insurance a summary of the contents of the application therefor.

§27-14-7. Same -- Representations and misrepresentations, etc.

(a) All statements and descriptions in any application for an insurance policy or annuity contract, or in negotiations therefor, by, or in behalf of, the

insured or annuitant shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts and incorrect statements shall not prevent a recovery under the policy or contract unless either:

(1) Fraudulent;

(2) Material either to the acceptance of the risk or to the hazard assumed by the insurer; or

(3) The insurer in good faith would either not have issued the policy or contract, or would not have issued a policy or contract at the premium rate as applied for, or would not have issued a policy or contract in as large an amount or would not have provided coverage with respect to the hazard resulting in the loss if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.

(b) No plea of misrepresentation or fraud in connection with the issuance of a life insurance policy or annuity contract shall be filed unless accompanied by a payment into court of all premiums paid on the policy or contract. (Code 1940, T. 28, §6; Acts 1971, No. 407, p. 707, §320.)

§27-14-8. Forms -- Filing and approval or disapproval.

(a) No basic insurance policy or annuity contract form or application form where written application is required and is to be made a part of the policy, or contract, or printed rider, or endorsement form or form of renewal certificate shall be delivered or issued for delivery in this state unless the form has been filed with, and approved by, the commissioner. This subsection shall not apply to surety bonds or to specially rated inland marine risks, nor to policies, riders, endorsements or forms of unique character designed for, and used with, relation to insurance upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request or with the consent of the individual policyholder, contract holder or certificate holder. As to group insurance policies effectuated and delivered outside this state, but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state shall be filed, for the commissioner's information only, with the commissioner at his request. As to forms for use in property, marine, other than wet marine and transportation insurance, casualty and surety insurance coverages, the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this subsection shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(b) Every such filing shall be made not less than 30 days in advance of any such delivery. At the expiration of such 30 days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend, by not more than an additional 30 days, the period within which he may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial 30-day period. At the

expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may, at any time, after notice and for cause shown, withdraw any such approval.

(c) Any order of the commissioner disapproving any such form or withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof.

(d) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form, or type thereof, as specified in such order, to which, in his opinion, this section may not practicably be applied or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(e) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in section 27-2-32.

§27-14-9. Same -- Grounds for disapproval or withdrawal of previous approval.

The commissioner may disapprove any form filed under section 27-14-8 or withdraw any previous approval thereof only if the form:

- (1) Is in any respect in violation of, or does not comply with, this title;
- (2) Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous or misleading clauses or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract;
- (3) Has any title, heading or other indication of its provisions which is misleading;
- (4) Is printed, or otherwise reproduced, in such manner as to render any provision of the form substantially illegible; or
- (5) Contains provisions which are unfair, or inequitable or contrary to the public policy of this state or which would, because such provisions are unclear or deceptively worded, encourage misrepresentation.

§27-14-10. Standard or uniform provisions; waiver or substitution thereof.

(a) Insurance contracts shall contain such standard or uniform provisions as are required by the applicable provisions of this title pertaining to contracts of particular kinds of insurance; however, the commissioner may waive the required use of a particular provision in a particular insurance policy form if:

- (1) He finds such provision unnecessary for the protection of the insured or inconsistent with the purposes of the policy; and
- (2) The policy is otherwise approved by him.

(b) No policy shall contain any provision inconsistent with, or contradictory to, any standard or uniform provision used or required to be used, but the commissioner may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the provisions otherwise required.

(c) In lieu of the provisions required by this title for contracts for particular kinds of insurance, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the commissioner.

§27-14-11. Contents of policies -- Generally.

(a) Every policy shall specify:

(1) The names of the parties to the contract;

(2) The subject of the insurance;

(3) The risks insured against;

(4) The time when the insurance thereunder takes effect and the period during which the insurance is to continue;

(5) The premium; and

(6) The conditions pertaining to the insurance.

(b) If under the policy the exact amount of premium is determinable only at stated intervals or termination of the contract, a statement of the basis and rates upon which the premium is to be determined and paid shall be included.

(c) This section shall not apply as to surety contracts or to group insurance policies.

§27-14-11.1. Same -- Denial or reduction of benefits due to medicaid eligibility void.

(a) For purposes of this section, "private insurer" is defined as:

(1) Any commercial insurance company offering health or casualty insurance to individuals or groups (including both experience-rated contracts and indemnity contracts);

(2) Any profit or nonprofit prepaid plan offering either medical services or full or partial payment for the diagnosis or treatment of an injury, disease or disability; and

(3) Any organization administering health or casualty insurance plans for professional associations, unions, fraternal groups, employer-employee benefit plans, and any similar organization offering these payments or services, including self-insured and self-funded plans.

(b) Any provision in an insurance contract issued or renewed after March 25, 1980 by a private insurer which denies or reduces benefits due to the eligibility of the insured to receive assistance under the medicaid program is null and void.

(c) The provisions of this section shall not be effective if they are found by a court of competent jurisdiction to contravene federal laws or federal regulations applicable to the medicaid program.

§27-14-12. Same – Additional provisions.

A policy may contain additional provisions not inconsistent with this title and which are:

(1) Required to be inserted by the laws of the insurer's domicile;

(2) Necessary, on account of the manner in which the insurer is constituted or operated, in order to state the rights and obligations of the parties to the contract; or

(3) Desired by the insurer and neither prohibited by law nor in conflict with any provisions required to be included therein.

§27-14-13. Charter, bylaws, etc., of insurer as part of contract.

No policy shall contain any provision purporting to make any portion of the charter, bylaws or other constituent document of the insurer, other than the subscriber's agreement or power of attorney of a reciprocal insurer, a part of the contract unless such portion is set forth in full in the policy. Any policy provision in violation of this section shall be invalid.

§27-14-14. Execution of policies.

(a) Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney-in-fact, employee or representative duly authorized by the insurer.

(b) A facsimile signature of any such executing individual may be used in lieu of an original signature.

(c) No insurance contract heretofore or hereafter issued and which is otherwise valid shall be rendered invalid by reason of the apparent execution thereof on behalf of the insurer by the imprinted facsimile of an individual not authorized so to execute as of the date of the policy.

§27-14-15. Underwriters' and combination policies.

(a) Two or more authorized insurers may jointly issue, and shall be jointly and severally liable on, an underwriters' policy bearing their names. Any one insurer may issue policies in the name of an underwriter's department, and such policy shall plainly show the true name of the insurer.

(b) Two or more insurers may issue a combination policy which shall contain provisions substantially as follows:

(1) That the insurers executing the policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of insurance under the policy; and

(2) That service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing the policy, shall constitute service upon all such insurers.

(c) This section shall not apply to cosurety obligations.

§27-14-16. Noncomplying policies, riders and endorsements.

Any insurance policy, rider or endorsement hereafter issued and otherwise valid which contains any condition or provision not in compliance with the requirements of this title shall not be thereby rendered invalid but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy, rider or endorsement been in full compliance with this title.

§27-14-17. Construction of policies.

(a) Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended or modified by any rider, endorsement or application which is a part of the policy.

(b) A clause in any policy of life insurance, including burial insurance, providing that such policy shall be incontestible after a specified period shall preclude only a contest of the validity of the policy and shall not preclude the assertion at any time of defenses based upon provisions in the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

§27-14-18. Binders.

(a) Binders or other contracts for temporary insurance may be made orally or in writing and shall be deemed to include all the usual terms of the policy as to which the binder was given, together with such applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder.

(b) No binder shall be valid beyond the issuance of the policy with respect to which it was given or beyond 90 days from its effective date, whichever period is the shorter.

(c) If the policy has not been issued, a binder may be extended or renewed beyond such 90 days with the written approval of the commissioner or in accordance with such rules and regulations relative thereto as the commissioner may promulgate.

(d) This section shall not apply to life or disability insurances.

§27-14-19. Delivery of policies.

(a) Subject to the insurer's requirements as to payment of premium, every policy shall be mailed or delivered to the insured or to the person entitled thereto within a reasonable period of time after its issuance, except where a condition required by the insurer has not been met by the insured.

(b) In event the original policy is delivered, or is so required to be delivered, to or for deposit with any vendor, mortgagee or pledgee of any motor vehicle, and in which policy any interest of the vendee, mortgagor or pledgor in or with reference to such vehicle is insured, a duplicate of such policy, setting forth the name and address of the insurer, insurance classification of vehicle, type of coverage, limits of liability, premiums for the respective coverages and duration of the policy, or memorandum thereof containing the same such information, shall be delivered by the vendor, mortgagee or pledgee to each such vendee, mortgagor or pledgor named in the policy or coming within the group of persons designated in the policy to be so included. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a statement of such fact shall be printed, written or stamped conspicuously on the face of such duplicate policy or memorandum.

§27-14-20. Renewal or extension of policies.

Any insurance policy terminating by its term at a specified expiration date and not otherwise renewable may be renewed or extended at the option of the insurer, and upon a currently authorized policy form and at the premium rate then required therefor for a specific additional period, or periods, by certificate or by endorsement of the policy and without requiring the issuance of a new policy.

§27-14-21. Assignment of policies.

(a) A policy may be assignable or not assignable, as provided by its terms. Subject to its terms relating to assignability, any life or disability policy, whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the owner, may be assigned either by pledge or transfer of title by an assignment executed by the owner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment until the insurer has received at its home office written notice of termination of the assignment or pledge or written notice by, or on behalf of, some other person claiming some interest in the policy in conflict with the assignment. No such written assignment is required in the case of a policy loan made by the insurer under the terms of the policy.

(b) A policy of life insurance, taken out by the insured himself or by a person having an insurable interest in the life of the insured, in good faith may, unless the policy provides otherwise, be assigned to anyone as any other chose in action without regard to whether the assignee has an insurable interest in the life insured or not.

§27-14-22. Situs of contracts.

All contracts of insurance, the application for which is taken within this state, shall be deemed to have been made within this state and subject to the laws thereof. (Code 1940, T. 28, §10; Acts 1971, No. 407, p. 707, §335.)

§27-14-23. Effect of war on contracts of foreign insurer.

No insurance contract issued to a citizen of this state by an insurer organized under the laws of a foreign country shall be invalidated by the occurrence of hostilities between such foreign country and the United States of America. (Code 1940, T. 28, §8; Acts 1971, No. 407, p. 707, §336.)

§27-14-24. Effect of payments.

Whenever the proceeds of, or payments under, a life or disability insurance policy or annuity contract, heretofore or hereafter issued, become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance with the terms of the policy or contract or in accordance with any written assignment thereof, the person then designated in the policy or contract, or by such assignment, as being entitled thereto shall be entitled to receive such proceeds or payments and to give full acquittance therefor; and such payments shall fully discharge the insurer from all claims under the policy or contract, unless, before payment is made, the insurer has received at its home office written notice by, or on behalf of, some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.

§27-14-25. Receipt and giving of acquittance and discharge for payment by minors.

(a) Any minor domiciled in this state who has attained the age of 18 years shall be deemed competent to receive and to give full acquittance and discharge for a payment, or payments, in aggregate amount not exceeding \$3,000.00 in any one year, made by a life insurer under the maturity, death or settlement agreement provisions in effect or elected by such minor under a life insurance policy or annuity contract, provided such policy, contract or agreement shall provide for the payment, or payments, to such minor and if, prior to such payment, the insurer has not received written notice of the appointment of a duly qualified guardian of the property of such minor. No such minor shall be deemed competent to alienate the right to, or to anticipate, such payments. This section shall not be deemed to restrict the rights of minors set forth in section 27-14-5.

(b) This section shall not be deemed to require any insurer to determine whether any other insurer may be effecting a similar payment to the same minor.

§27-14-26. Forms for proof of loss.

An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued or assumed by such insurer, forms for proof of loss for completion by such person, but such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for, or with reference to, the completion of such proof or the manner of any such completion or attempted completion.

§27-14-27. Acts not deemed waiver of provisions or defenses.

Without limitation of any right or defense of an insurer otherwise, none of the following acts by, or on behalf of, an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder:

(1) Acknowledgement of the receipt of notice of loss or claim under the policy;

(2) Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted; or

(3) Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

§27-14-28. Effect of misrepresentations in proof of loss.

No misrepresentation in any proof of loss under any insurance policy shall defeat or void the policy unless such misrepresentation is made with actual intent to deceive as to a matter material to the insured's rights under the policy. (Code 1940, T. 28, §6; Acts 1971, No. 407, p. 707, §341.)

§27-14-29. Rights of beneficiaries, etc., under life insurance policies against creditors, etc.

(a) If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life in favor of a person other than himself or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary, or assignee thereof, other than the insured or the person so effecting such insurance or his executors or administrators, shall be entitled to its proceeds and avails against the creditors, personal representatives, trustees in bankruptcy and receivers in state and federal courts of the person insured and of the person effecting the insurance, whether or not the right to change the beneficiary is reserved or permitted and whether or not the policy is made payable to the person whose life is insured, if the beneficiary or assignee shall predecease such person; provided, however, that, subject to the statute of limitations, the amount of any premiums for the insurance paid with intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy; but the insurer issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless before such payment the insurer shall have written notice, by or in behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specifications of the amount claimed.

(b) If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on the life of another in favor of the person effecting the same or, except in cases of transfer with intent to defraud creditors, is made payable by assignment, change of beneficiary or otherwise to any such person, the latter shall be entitled to the proceeds and avails of the policy as against the creditors, personal representatives, trustees in bankruptcy and receivers in state

and federal courts of the person insured. If the person effecting such insurance, or the assignee of such insurance, is the wife of the insured, she shall also be entitled to the proceeds and avails of the policy as against her own creditors, personal representatives, trustees in bankruptcy and receivers in state and federal courts.

(c) "Proceeds and avails," as used in this section, means death benefits, cash surrender and loan values, premiums waived and dividends, whether used in reduction of premiums or otherwise, excepting only where the debtor, subsequent to issuance of the policy, has actually elected to receive the dividends in cash.

(d) For the purposes of subsection (a) of this section, a policy shall also be deemed to be payable to a person other than the insured if, and to the extent that, a facility-of-payment clause, or similar clause, in the policy permits the insurer to discharge its obligations after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

§27-14-30. Right to proceeds when same retained by life insurer.

If under the terms of any annuity contract or life insurance policy, or under any written agreement supplemental thereto, issued by any life insurer, the proceeds, or any part thereof, are retained by the insurer at maturity or otherwise, no person entitled to any part of such proceeds or any installments of interest due, or to become due thereon, shall be permitted to commute, anticipate, encumber, alienate or assign the same, or any part thereof, if such permission is expressly withheld by the terms of such contract, policy or supplemental agreement; and if such contract, policy or supplemental agreement so provides, no payment of interest or of principal shall be in any way subject to such person's debts, contracts or engagements nor to any judicial process to levy upon, or attach the same, for payment thereof.

§27-14-31. Exemption from debt of proceeds -- Disability.

The proceeds or avails of all contracts or disability insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts, heretofore or hereafter effected, shall be exempt from all liability for any debt of the insured and from any debt of the beneficiary existing at the time the proceeds are made available for his use. The exemption of income benefits payable as the result of disability shall not exceed an average of \$250.00 of such benefits per month of the period of disability.

§27-14-32. Same -- Annuity contracts.

(a) The benefits, rights, privileges and options which under any annuity contract, heretofore or hereafter issued, are due or prospectively due the annuitant shall not be subject to execution, nor shall the annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the contract, except:

(1) As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payments to the

annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed, or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the insurance or annuity contract, the person insured or annuitant and the payments sought to be avoided on the ground of fraud;

(2) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant shall not at any time exceed \$250.00 per month for the length of time represented by such installments, and such periodic payments in excess of \$250.00 per month shall be subject to garnishment;

(3) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant shall at any time exceed payment at the rate of \$250.00 per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

(b) If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained in this section for the annuitant shall apply with respect to such beneficiary or assignee.

§27-15-1. Applicability of chapter.

This chapter applies to contracts of life insurance and annuities other than reinsurance, group life insurance, group annuities, industrial life and burial insurance; except, that sections 27-15-15, 27-15-24, 27-15-25, 27-15-28 and 27-15-29 shall apply to industrial life insurance also.

§27-15-2. Life insurance policy provisions – Generally.

(a) No policy of life insurance other than industrial, group and pure endowments, with or without return of premiums or of premiums and interest, shall be delivered or issued for delivery in this state unless it contains in substance all of the provisions required by sections 27-15-3 through 27-15-14. This section shall not apply to burial insurance, annuity contracts, to any provision of a life insurance policy, or contract supplemental thereto, relating to disability benefits or to additional benefits in the event of death or dismemberment by accident or accidental means or to any provision relating to waiver of premiums in the event of death or disability of the beneficiary or premium payer.

(b) Any of such provisions, or portions thereof not applicable to single premium or term policies, shall, to that extent, not be incorporated therein.

§27-15-3. Same – Grace period.

There shall be a provision that a grace period of 30 days or, at the option of the insurer, of one month of not less than 30 days shall be allowed within which the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force; but if a claim arises under the policy during such period of grace, the amount of any premium due or overdue may be deducted from the policy proceeds.

§27-15-4. Same – Incontestability.

There shall be a provision that the policy, exclusive, at the option of the insurer, of provisions relating to disability benefits or to additional benefits in the event of death by accident or accidental means, shall be incontestable, except for nonpayment of premiums, after it has been in force during the lifetime of the insured for a period of two years from its date of issue.

§27-15-5. Same – Entire contract; representations.

There shall be a provision that the policy, or the policy and the application or a summary of such application, if a copy of the application or a summary thereof is endorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties and that all statements contained in the application shall, in the absence of fraud, be deemed representations and not warranties. In the event of discrepancies between the original application and the summary, the contents of the original application shall govern. When a summary of the application is attached to the policy, the insurer shall keep and maintain the original application for insurance or a copy thereof for a period of not less than three years from the date on which the policy was issued.

§27-15-6. Same – Misstatement of age or sex.

There shall be a provision that if the age or sex of the insured or of any other person whose age or sex is considered in determining the premium has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or sex.

§27-15-7. Same – Dividends.

There shall be a provision in participating policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy, provided the policy is in force and all premiums to that date are paid. Except as provided in this section, any dividend becoming payable shall, at the option of the party entitled to elect such option, be either:

(1) Payable in cash; or

(2) Applied to any one of such other dividend options as may be provided by the policy. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than 30 days

following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of subdivision (1) of this section, even though the policy provides that payment of such dividend is to be deferred for a specified period, provided such period does not exceed six years from the date of apportionment and that interest will be added to such dividend at a specified rate and provided, further, that upon the maturity, surrender or other expiry of the policy, any such dividend, and interest thereon, shall not be forfeited to the insurer. If a participating policy provides that the benefit under any paid-up nonforfeiture provision is to be participating, it may provide that any divisible surplus becoming payable or apportioned while the insurance is in force under such nonforfeiture provision shall be applied in the manner set forth in the policy.

§27-15-8. Same -- Loans on policy.

(a) In case of policies issued on and after the operative date of section 21-15-28, there shall be a provision that after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest not exceeding eight percent per annum, payable in advance, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, provided that the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of the premium for the current policy year and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate and that, if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void, but not until at least 30 days' notice shall have been mailed by the insurer to the last known address of the insured or policyowner and of any assignee of record at the home office of the insurer. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect.

(b) This section shall not apply to term policies nor to term insurance benefits provided by rider or supplemental policy provision.

§27-15-8.1. Same -- Maximum rates of interest on policy loans.

(a) For purposes of this section the "published monthly average" means:

(1) The Monthly Average of the Composite Yield on Seasoned Corporate Bonds as published by Moody's Investors Service, Inc. or any successor thereto;
or

(2) In the event that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds is no longer published, a substantially similar average, established by regulation issued by the commissioner.

(b) (1) Policies issued on or after May 15, 1981, shall provide for policy loan interest rates as follows:

a. A provision permitting a maximum interest rate of not more than eight percent per annum; or

b. A provision permitting an adjustable maximum interest rate established from time to time by the life insurer as permitted by law.

(2) The rate of interest charged on a policy loan made under subdivision (1) of this subsection shall not exceed the higher of the following:

a. The published monthly average for the calendar month ending two months before the date on which the rate is determined; or

b. The rate used to compute the cash surrender values under the policy during the applicable period plus one percent per annum.

(3) If the maximum rate of interest is determined pursuant to subdivision (2) of this subsection, the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.

(4) The maximum rate for each policy must be determined at regular intervals at least once every 12 months, but not more frequently than once in any three month period. At the intervals specified in the policy:

a. The rate being charged may be increased whenever such increase as determined under subdivision (2) of this subsection would increase that rate by one-half percent or more per annum;

b. The rate being charged must be reduced whenever such reduction as determined under subdivision (2) of this subsection would decrease that rate by one-half percent or more per annum.

(5) The life insurer shall:

a. Notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;

b. Notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in paragraph c. of this subdivision;

c. Send to policyholders with loans reasonable advance notice of any increase in the rate; and

d. Include in the notices required above the substance of the pertinent provisions of subdivisions (1) and (3) of this subsection.

(6) The loan value of the policy shall be determined in accordance with section 27-15-8, but no policy shall terminate in a policy year as the sole result of change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

(7) The substance of the pertinent provisions of paragraphs (1) and (3) of this subsection shall be set forth in the policies to which they apply.

(8) For purposes of this subsection:

a. The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy.

b. The term "policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due.

c. The term "policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer.

d. The term "policy" includes certificates issued by a fraternal benefit society and annuity contract which provide for policy loans.

(9) No other provisions of law shall apply to policy loan interest rates unless made specifically applicable to such rates.

(c) The provisions of this section shall not apply to any insurance contract issued before May 15, 1981, unless the policyholder agrees in writing to the applicability of such provisions.

(d) In the event of any conflicts between the provisions of this section and section 27-15-5, Code of Alabama 1975, the provisions of this section shall control.

§27-15-9. Same -- Table of values and benefits.

In policies issued on and after the operative date of section 27-15-28, there shall be a table showing in figures the loan value and the cash surrender values and nonforfeiture benefits in accordance with subdivision (b) (5) of section 27-15-28, either during the first 20 policy years or during the term of the policy, whichever is shorter.

§27-15-10. Same -- Table of installments.

In case the policy provides that the proceeds may be payable in installments which are determinable at issue of the policy, there shall be a table showing the amounts of the guaranteed installments.

§27-15-11. Same -- Reinstatement.

There shall be a provision that unless the policy has been surrendered for its cash value, or its cash surrender value has been exhausted or the period of any extended insurance provided by the policy has expired, the policy will be reinstated at any time within three years after the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all overdue premiums and payment, or, within the limits permitted by the then cash value of the policy, reinstatement, of any other indebtedness to the insurer upon the policy, with interest as to both premiums and indebtedness at a rate not exceeding the rate of interest on policy loans specified in the policy in accordance with the provisions of §27-15-8, as may be amended from time to time.

§27-15-12. Same -- Payment of premiums.

There shall be a provision relative to the payment of premiums.

§27-15-13. Same -- Settlement of claims.

There shall be a provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy and proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed two months from the receipt of such proofs.

§27-15-14. Same -- Title.

There shall be a title on the policy briefly describing the same.

§27-15-15. Effect of incontestability clause.

A clause in any policy of life insurance or annuity contract providing that such policy or contract shall be incontestable after a specified period shall preclude only a contest of the validity of the policy or contract and shall not preclude the assertion at any time of defenses based upon provisions in the policy or contract which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

§27-15-16. Annuity and pure endowment contract provisions -- Generally.

(a) No annuity or pure endowment contract, other than reversionary annuities, survivorship annuities or group annuities and except as stated in this section, shall be delivered or issued for delivery in this state unless it contains in substance each of the provisions specified in sections 27-15-17 through 27-15-22. Any of such provisions not applicable to single premium annuities or single premium pure endowment contracts shall not, to that extent, be incorporated therein.

(b) This section shall not apply to contracts for deferred annuities included in, or upon the lives of beneficiaries under, life insurance policies.

§27-15-17. Same – Grace period.

In an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, there shall be a provision that there shall be a period of grace of one month, but not less than 30 days, within which any stipulated payment to the insurer falling due after the first may be made, subject at the option of the insurer to an interest charge thereon at a rate to be specified in the contract but not exceeding six percent per annum for the number of days of grace elapsing before such payment, during which period of grace the contract shall continue in full force; but in case a claim arises under the contract on account of death prior to expiration of the period of grace before the overdue payment to the insurer or the deferred payments of the current contract year, if any, are made, the amount of such payments, with interest on any overdue payments, may be deducted from any amount payable under the contract in settlement.

§27-15-18. Same – Incontestability.

If any statements, other than those relating to age, sex and identity, are required as a condition to issuing an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity and subject to section 27-15-20, there shall be a provision that the contract shall be incontestable after it has been in force during the lifetime of the person, or of each of the persons, as to whom such statements are required for a period of two years from its date of issue, except for nonpayment of stipulated payments to the insurer; and at the option of the insurer, such contract may also except any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means.

§27-15-19. Same – Entire contract.

In an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, there shall be a provision that the written contract shall constitute the entire contract between the parties or, if a copy of the application or a summary thereof is endorsed upon or attached to the contract when issued, a provision that the written contract and the application or summary thereof shall constitute the entire contract between the parties. In the event of discrepancies between the original application and the summary, the contents of the original application shall govern. When a summary of the application is attached to the policy, the insurer shall keep and maintain the original application for insurance or a copy thereof for a period of not less than three years from the date on which the policy was issued.

§27-15-20. Same – Misstatement of age or sex.

In an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, there shall be a provision that if the age or sex of the person, or persons, upon whose life, or lives, the contract is made, or of any of them, has been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment, or payments, to the insurer would have purchased according to the correct age or sex and that if the insurer shall make, or has made, any overpayment, or overpayments, on account of any

such misstatement the amount thereof, with interest at the rate to be specified in the contract but not exceeding six percent per annum, may be charged against the current or next succeeding payment, or payments, to be made by the insurer under the contract.

§27-15-21. Same – Dividends.

If an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract.

§27-15-22. Same -- Reinstatement.

In an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, there shall be a provision that the contract may be reinstated at any time within one year from the default in making stipulated payments to the insurer unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated with interest thereon at a rate to be specified in the contract, but not exceeding six percent per annum payable annually, and, in cases where applicable, the insurer may also include a requirement of evidence of insurability satisfactory to the insurer.

§27-15-23. Standard provisions in contracts for reversionary annuities.

(a) Except as stated in this section, no contract for a reversionary annuity shall be delivered or issued for delivery in this state unless it contains in substance each of the following provisions:

(1) Any such reversionary annuity contract shall contain the provisions specified in sections 27-15-17 through 27-15-21 except that under section 27-15-20 the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue or deferred payment in lieu of providing for deduction of such payments from an amount payable upon settlement under the contract; and

(2) In such reversionary annuity contracts, there shall be a provision that the contract may be reinstated at any time within three years from the date of default in making stipulated payments to the insurer upon production of evidence of insurability satisfactory to the insurer and upon condition that all overdue payments and any indebtedness to the insurer on account of the contract be paid or, within the limits permitted by the then cash values of the contract, reinstated with interest as to both payments and indebtedness at a rate to be specified in the contract, but not exceeding six percent per annum compounded annually.

(b) This section shall not apply to group annuities or to annuities included in life insurance policies, and any of such provisions not applicable to single premium annuities shall not to that extent be incorporated therein.

§27-15-24. Exclusions and restrictions in life insurance policies.

(a) No policy of life insurance shall be delivered or issued for delivery in this state if it contains any of the following provisions:

(1) A provision for a period shorter than that provided by statute within which an action may be commenced on such a policy; and

(2) A provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status; except, that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

a. Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

b. Death as a result of aviation or any air travel or flight;

c. Death as a result of a specified hazardous occupation or occupations, avocation or avocations;

d. Death while the insured is a resident outside continental United States and Canada; or

e. Death within two years from the date of issue of the policy as a result of suicide, while sane or insane.

(b) A policy which contains any exclusion or restriction pursuant to subsection (a) of this section shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable the insurer will pay an amount not less than a reserve determined according to the commissioner's reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits, or, if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy, with adjustment for indebtedness or dividend credit; except, that if the policy has been in force for not more than two years, the insurer shall pay the amount of the gross premiums charged on the policy less dividends paid in cash or used in the payment of premiums thereon and less any indebtedness to the insurer on the policy, including interest due or accrued.

(c) This section shall not apply to group life insurance, disability insurance, reinsurance or annuities, or to any provision in a life insurance policy or contract supplemental thereto relating to disability benefits or to additional benefits in the event of death or dismemberment by accident or accidental means or to any provision relating to waiver of premium in event of death or disability of the beneficiary or premium payer.

(d) Nothing contained in this section shall prohibit any provision which in the opinion of the commissioner is more favorable to the policyholder than a provision permitted by this section.

§27-15-25. Contestability of reinstated policies.

A reinstated policy of life insurance or annuity contract may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement and with the same conditions and exceptions as the policy provides with respect to contestability after original issuance.

§27-15-26. Power of life insurer to hold proceeds of policy.

Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy, in the event the policyholder has made no such agreement, the insurer shall have the power to hold the proceeds of the policy under an agreement with the beneficiaries. The insurer shall not be required to segregate the funds so held but may hold them as part of its general assets.

§27-15-27. Deductions in determining amount due under life insurance.

In determining the amount due under any life insurance policy heretofore or hereafter issued, deduction may be made of:

- (1) Any unpaid premiums or installments thereof for the current policy year due under the terms of the policy; and
- (2) The amount of principal and accrued interest of any policy loan or other indebtedness against the policy then remaining unpaid.

§27-15-28. Standard nonforfeiture law for life insurance.

(a) This section shall be known as the standard nonforfeiture law for life insurance.

(b) In the case of policies issued on, or after January 1, 1972, no policy of life insurance, except as set forth in subsection (n) of this section, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which, in the opinion of the commissioner, are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements specified in this subsection and are essentially in compliance with subsection (m) of this section:

(1) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be specified in this section. In lieu of such stipulated paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits;

(2) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance and five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be specified in this section;

(3) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default;

(4) That, if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on, or after, the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be specified in this section;

(5) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy; and

(6) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance laws of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; and a statement of the method to be used in calculating the cash surrender value, and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(c) Any of the provisions, or portions thereof, set forth in subdivisions (1) through (6) of subsection (b) of this section which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

(d) Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (b) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

(1) The then present value of the adjusted premium as defined in subsections (f), (g), (h), (i) and (j) of this section, corresponding to premiums which would have fallen due on and after such anniversary; and

(2) The amount of any indebtedness to the insurer on account of or secured by the policy.

Provided, however, that for any policy issued on or after the operative date of subsection (j) of this section, as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

Provided, further, that for any family policy issued on or after the operative date of subsection (j) of this section, as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age 71, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

Any cash surrender value available within 30 days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefits, whether or not required by subsection (b) of this section, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(e) Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(f) This subsection shall not apply to policies issued on or after the operative date of subsection (j) of this section, as defined therein. Except as provided in subsection (h) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(1) The then present value of the future guaranteed benefits provided for by the policy;

(2) Two percent of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as defined in this section, if the amount of insurance varies with the duration of the policy;

(3) Forty percent of the adjusted premium for the first policy year; and

(4) Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less; provided, however, that in applying the percentages specified in subdivisions (3) and (4) of this subsection, no adjusted premiums shall be deemed to exceed four percent of the amount of insurance or uniform amount equivalent thereto.

Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purpose of this subsection and subsections (g) and (h) of this section shall be the date as of which the rated age of the insured is determined.

(g) This subsection shall not apply to policies issued on or after the operative date of subsection (j) of this section, as defined therein. In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purposes of subsection (f) of this section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy containing the same endowment benefit, or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, however, that, in the case of a policy for a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

(h) This subsection shall not apply to policies to be issued on or after the operative date of subsection (j) of this section, as defined therein. The adjusted premiums for any policy providing term insurance benefits by rider or supplement

tal policy provision shall be equal to: (1) The adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits increased, during the period for which premiums for such term insurance benefits are payable, by (2) the adjusted premiums for such term insurance, subdivisions (1) and (2) of this subsection being calculated separately, and as specified in subsections (f) and (g) of this section.

(i) This subsection shall not apply to ordinary or industrial policies to be issued on or after the operative date of subsection (j), as defined therein. The adjusted premiums and present values referred to in this section shall, for all policies of ordinary insurance, be calculated on the basis of the commissioners' 1958 standard ordinary mortality table, provided that, for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured and provided that, for any category of ordinary insurance issued on female risks on or after July 30, 1979, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. Such calculation for all policies of industrial insurance shall be made on the basis of the commissioners' 1961 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided, that such rate of interest shall not exceed three and one-half percent per annum; provided further, that a rate of interest not exceeding four percent per annum may be used for policies issued on or after August 23, 1976, and prior to July 30, 1979, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after July 30, 1979; provided, however, that, in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed in the case of ordinary policies may not be more than those shown in the commissioners' 1958 extended term insurance table and, in the case of industrial policies, may not be more than those shown in the commissioners' 1961 industrial extended term insurance table; provided further, that, for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

(j) (1) This subsection shall apply to all policies issued on or after the operative date of this subsection as defined herein. Except as provided in subdivision (7) of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of:

a. The then present value of the future guaranteed benefits provided for by the policy;

b. One percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

c. One hundred twenty-five percent of the nonforfeiture net level premium, as hereinafter defined; provided, however, that in applying the percentage specified in this paragraph, no nonforfeiture net level premium shall be deemed to exceed four percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years.

The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

(2) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one percent per annum, payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(3) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(4) Except as otherwise provided in subdivision (7) of this subsection, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value at the time of change to the newly defined benefits or premiums, or all such future adjusted premiums shall be equal to the excess of the sum of (i) the then present value of the then future guaranteed benefits provided for by the policy and (ii) the additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(5) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of:

a. One percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and

b. One hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

(6) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing a. by b. where a. equals the sum of (i) the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one percent per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and (ii) the present value of the increase in future guaranteed benefits provided for by the policy, and b. equals the present value of an annuity of one percent per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(7) Notwithstanding any other provision of this subsection to the contrary, in the case of a policy issued on a substandard basis, which provides reduced graded amounts of insurance, so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis, which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(8) All adjusted premiums and present values referred to in this subsection shall, for all policies of ordinary insurance, be calculated on the basis of the commissioners' 1980 standard ordinary mortality table or, at the election of the insurer for any one or more specified plans of life insurance, the commissioners' 1980 standard ordinary mortality table with 10-year select mortality factors; shall, for all policies of industrial insurance, be calculated on the basis of the commissioners' 1961 standard industrial mortality table; and shall, for all policies issued in a particular calendar year, be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in that calendar year; provided, however, that:

a. At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year.

b. Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (b) of this section, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

c. An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions, under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

d. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the

commissioners' 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners' 1961 industrial extended term insurance table for policies of industrial insurance.

e. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

f. Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners' 1980 standard ordinary mortality table with or without 10-year select mortality factors or for the commissioners' 1980 extended term insurance table.

g. Any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners' 1961 standard industrial mortality table or the commissioners' 1961 industrial extended term insurance table.

(9) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125 percent of the calendar year statutory valuation interest rate for such policy as defined in the standard valuation law, rounded to the nearest one-quarter of one percent.

(10) Notwithstanding any other provision of this code to the contrary, any refilling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refilling of any other provisions of that policy form.

(11) After the effective date of this subsection, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1989.

(k) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or, in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsection (b), (c), (d), (e), (f), (g), (h), (i) or (j) of this section, then:

(1) The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsection (b), (c), (d), (e), (f), (g), (h), (i) or (j) of this section;

(2) The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(3) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this standard nonforfeiture law for life insurance, as determined by regulations promulgated by the commissioner.

(l) Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (d), (e), (f), (g), (h), (i) and (j) of this section may be calculated on the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall not be less than the amounts used to provide such additions. Notwithstanding the provisions of subsection (d) of this section, additional benefits payable:

(1) In the event of death or dismemberment by accident or accidental means;

(2) In the event of total and permanent disability;

(3) As reversionary annuity or deferred reversionary annuity benefits;

(4) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply;

(5) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one and has not become paid-up by reason of the death of the parent of the child; and

(6) As other policy benefits additional to life insurance and endowment benefits,

and premiums for all such additional benefits shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(m) This subsection, in addition to all other applicable subsections of this section, shall apply to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years, from the sum of (1) the greater of

zero and the basic cash value hereinafter specified and (2) the present value of any existing paid-up additions, less the amount of any indebtedness to the insurer on account of or secured by the policy.

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the insurer, if there had been no default, less the then present value of the nonforfeiture factors, as defined in this subsection, corresponding to premiums which would have fallen due on and after such anniversary; provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (d) or (h) of this section, whichever is applicable, shall be the same as are the effects specified in subsection (d) or (h) of this section, whichever is applicable, on the cash surrender values defined in that subsection.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection (f), (g), (h) or (j) of this section, whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage: (1) Must be the same percentage for each policy year between the second policy anniversary and the later of (i) the fifth policy anniversary and (ii) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and (2) Must be such that no percentage after the later of the two policy anniversaries specified in the preceding item (1) may apply to fewer than five consecutive policy years.

Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection (f), (g), (h), or (j) of this section, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subsections of this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment, shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections (b), (c), (d), (e), (j) and (l). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed in items (1) through (6) in subsection (l) of this section shall conform with the principles of this subsection.

(n) This section shall not apply to any of the following:

- (1) Reinsurance;
- (2) Group insurance;
- (3) Pure endowment;
- (4) Annuity or reversionary annuity contract;
- (5) Variable life insurance contract;

(6) Term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less, expiring before age 71, for which uniform premiums are payable during the entire term of the policy;

(7) Term policy of decreasing amount, which provides no guaranteed nonforfeiture for endowment benefits, on which each adjusted premium, calculated as specified in subsections (f), (g), (h), (i) and (j) of this section, is less than the adjusted premium so calculated on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of 20 years or less, expiring before age 71, for which uniform premiums are payable during the entire term of the policy; and

(8) Policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections (d), (e), (f), (g), (h), (i) and (j), exceeds two and one-half percent of the amount of insurance at the beginning of the same policy year.

(o) For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

(p) This section shall not apply to benefits provided in the form of funeral or monument merchandise and services under burial policies except to the extent provided in section 27-17-13.

§27-15-28.1. Standard nonforfeiture law for individual deferred annuities.

(a) This section shall be known as the standard nonforfeiture law for individual deferred annuities.

(b) This section shall not apply to any reinsurance group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity

contract after annuity payments have commenced or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

(c) In the case of contracts issued on or after the operative date of this section as defined in subsection (l) no contract of annuity, except as stated in subsection (b), shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (e), (f), (g), (h) and (j);

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (e), (f), (h) and (j). The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits; and

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than \$20.00 monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(d) The minimum values as specified in subsections (e), (f), (g), (h) and (j) of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this subsection:

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at, or prior to, the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

a. any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum; and

b. the amount of any indebtedness to the company on the contract, including interest due and accrued; and increased by any existing additional amounts credited by the company to the contract.

The net consideration for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of \$30.00 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year. The percentages of net considerations shall be 65 percent of the net consideration for the first contract year and 87 1/2 percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be 65 percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65 percent.

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

a. The portion of the net consideration for the first contract year to be accumulated shall be the sum of 65 percent of the net consideration for the first contract year plus 22 1/2 percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

b. The annual contract charge shall be the lesser of (i) \$30.00 or (ii) 10 percent of the gross annual consideration.

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90 percent and the net considerations shall be the gross consideration less a contract charge of \$75.00.

(e) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(f) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrender of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(g) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of the paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(h) For the purpose of determining the benefits calculated under subsections (f) and (g) in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(i) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(j) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(k) For any contract which provides, within the same contract by rider or supplemental contract provisions, both annuity benefits and life insurance benefits

that are in excess of the greater cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (e), (f), (g), (h) and (i) additional benefits payable (1) in the event of total and permanent disability, (2) as reversionary annuity or deferred reversionary annuity benefits or (3) as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(l) After July 30, 1979, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before July 30, 1981. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be July 30, 1981.

§27-15-29. Prohibited policy plans.

(a) No insurer shall hereafter deliver or issue for delivery in this state any policy or contract providing for the establishment of its policyholders or members into divisions and classes and for payment of benefits from special funds created for such purpose to the oldest member of the division and class or to the member of the division and class whose policy has been in force the longest period of time upon the death of a member in such division and class, or under any other similar plan; except, that any insurer heretofore operating on such a plan in this state, whether by conversion from a fraternal benefit society or otherwise, may continue to do so upon the condition that the insurer shall not hereafter establish its policyholders or members into any new divisions, classes or groupings of any kind, other than those heretofore established and containing subsisting policies heretofore issued, and that the insurer, if a stock insurer, shall have and maintain paid-in capital stock of at least \$100,000.00 or, if a mutual insurer, a surplus of at least \$25,000.00 and increase such surplus to, and thereafter maintain surplus in the amount of, at least \$100,000.00 within six years from January 1, 1972.

(b) No insurer shall deliver, or issue for delivery, in this state as a part of, or in combination with, any insurance, endowment or annuity contract any agreement or plan which provides for the accumulation of profits over a period of years and for payment of all, or any part of, such accumulated profits only to policyholders or members of a designated group or class who continue as members or policyholders until the end of a specified period of time or under any other similar plan.

(c) This section shall not be deemed to prohibit the payment or allowance of regular annual dividends or "savings" under regular participating forms of policies or contracts.

§27-16-1. "Industrial life insurance" defined.

For the purposes of this title, "industrial life insurance" is that form of life insurance written under policies of face amount to \$2,500.00 or less bearing the words "industrial policy" imprinted on the face thereof as part of the descriptive matter and under which premiums are payable monthly or more often.

§27-16-2. Applicability of chapter.

The provisions of this chapter apply only to industrial life insurance policies. Sections 27-15-15, 27-15-24, 27-15-25, 27-15-28 and 27-15-29 shall also apply to industrial life insurance.

§27-16-3. Policy provisions -- Generally.

(a) No policy of industrial life insurance shall be delivered or be issued for delivery in this state unless it contains in substance the applicable provisions set forth in sections 27-16-4 through 27-16-14.

(b) This section does not apply to burial insurance policies as defined in section 27-17-1.

§27-16-4. Same -- Grace period.

There shall be a provision that the insured is entitled to a grace period of four weeks within which the payment of any premiums after the first may be made; except, that in policies the premiums for which are payable monthly, the period of grace shall be one month, but not less than 30 days, and that during the period of grace the policy shall continue in full force, but if during the grace period the policy becomes a claim, then any overdue and unpaid premiums may be deducted from any settlement under the policy.

§27-16-5. Same -- Entire contract; representations.

There shall be a provision that the policy shall constitute the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract. If the application is so made a part of the contract, the policy shall also provide that all statements made by the applicant in such application shall, in the absence of fraud, be deemed to be representations and not warranties.

§27-16-6. Same -- Incontestability.

There shall be a provision that the policy, exclusive of provisions relating to disability or dismemberment benefits or to additional benefits in the event of death by accident or accidental means, shall be incontestable, except for nonpayment of premiums, after it has been in force during the lifetime of the insured for a period of two years from its date of issue. (Code 1940, T. 28, §7; Acts 1967, No. 181, p. 543; Acts 1971, No. 407, p. 707, §380.)

§27-16-7. Same -- Misstatement of age or sex.

There shall be a provision that if it is found that the age or sex of the individual insured or the age or sex of any other individual considered in determining the premium has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages, sex or sexes.

§27-16-8. Same -- Dividends.

If a participating policy, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy; except, that, at the option of the insurer, such participation may be deferred to the end of the fifth policy year. This provision shall not prohibit the payment of additional dividends on default of payment of premiums or termination of the policy.

§27-16-9. Same -- Reinstatement.

(a) There shall be a provision that unless the policy has been surrendered for its cash value, or its cash surrender value has been exhausted or the period of any extended insurance provided by the policy has expired, the policy will be reinstated at any time within two years after the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all overdue premiums and payment or, within the limits permitted by the then cash value of the policy, reinstatement of any other indebtedness to the insurer upon the policy with interest as to both premiums and indebtedness at a rate not exceeding six percent per annum compounded annually.

(b) If for the purpose of or toward reinstatement of a policy after its lapse the insurer receives a payment or tender of premium or other funds in amount less than as required to effectuate the reinstatement so as to place the policy currently in full force, then, within 60 days after the receipt of such payment or tender, the insurer shall either:

(1) Collect whatever amount is necessary to effectuate the reinstatement and place the policy in full force and effect currently;

(2) Refund to the person entitled thereto all such payments and amounts tendered and refuse the reinstatement; or

(3) In the absence of action referred to in subdivisions (1) or (2) of this subsection the insurer shall be deemed as a matter of law to have effectuated reinstatement of the policy so that it is in full force and effect currently as of the end of such 60-day period and to have forever waived the payment or collection of all premiums and amounts theretofore due and unpaid under the policy.

(c) The provisions made in subsection (b) of this section need not be contained in the policy.

§27-16-10. Same -- Settlement of claims.

There shall be a provision that, when the policy becomes a claim by the death of the insured, settlement shall be made upon receipt of due proof of death

and, at the insurer's option, surrender of the policy and premium receipt book and proof of interest of the claimant. If the insurer specifies a particular period prior to the expiration of which settlement shall be made, such period shall not exceed two months from the receipt of such proofs.

§27-16-11. Same -- Waiver, etc., of policy terms or conditions.

There shall be a provision that no agent shall have the power or authority to waive, change or alter any of the terms or conditions of any policy; except, that at the option of the insurer, the terms or conditions may be changed by an endorsement or rider signed by a duly authorized officer of the insurer.

§27-16-12. Same -- Beneficiaries; payment to other than designated beneficiary.

(a) Each such policy shall have a space for the name of the beneficiary designated with a reservation of the right to designate or change the beneficiary after the issuance of the policy.

(b) The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured.

(c) Such a policy may also provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within the period stated in the policy, which shall be not less than 30 days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or dies before the insured or is not legally competent to give a valid release, then the insurer may make payment thereunder to the executor or administrator of the insured, or to any of the insured's relatives by blood or legal adoption or connection by marriage or to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attention or burial of the insured. Such policy may also include a similar provision applicable to any other payment due under the policy.

§27-16-13. Same -- Nonforfeiture benefits and cash surrender values.

There shall be provisions for nonforfeiture benefits and cash surrender values as required by section 27-15-28.

§27-16-14. Same -- Title.

There shall be a title on the face of each such policy briefly describing the same.

§27-16-15. Same -- Applicability to single premium, etc., policies.

Any of the provisions required by sections 27-16-4 through 27-16-14, or any portion thereof, which are not applicable to single premium or term policies or to

policies issued or granted pursuant to nonforfeiture provisions shall, to that extent, not be incorporated therein.

§27-16-16. Same -- Conversion to life insurance with less frequent premium payments.

There may be a provision in the case of industrial policies granting to the insured, upon proper written request and upon presentation of evidence of insurability satisfactory to the insurer, the privilege of converting any industrial insurance policy to any form of life insurance with less frequent premium payments regularly issued by the insurer, in accordance with terms and conditions agreed upon with the insurer. The privilege of making such conversion need be granted only if the insurer's industrial policies on the life insured, in force as premium-paying insurance and on which conversion is requested, grant benefits in event of death, exclusive of additional accidental death benefits and exclusive of any dividend additions, in an amount not less than the minimum amount of such insurance, with less frequent premium payments issued by the insurer at the age of the insured on the plan of industrial or ordinary insurance desired.

§27-16-17. Same -- Prohibited provisions.

No policy of industrial life insurance shall contain any of the following provisions:

(1) A provision by which the insurer may deny liability under the policy for the reason that the insured has previously obtained other insurance from the same insurer;

(2) A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within two years prior to the issuance of the policy, received institutional, hospital, medical or surgical treatment or attention and if the insured or claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk; or

(3) A provision giving the insurer the right to declare the policy void because the insured has been rejected for insurance, unless such right be conditioned upon a showing by the insurer that knowledge of such rejection would have led to a refusal by the insurer to make such contract.

§27-17-1. Applicability of chapter; "burial insurance" defined.

(a) This chapter applies only to burial insurance policies.

(b) For the purposes of this title, "burial insurance" is that form of life insurance under which:

(1) Benefits are provided in the form of merchandise and services incident to the burial of the insured or the furnishing of a monument to the insured;

(2) The specified retail value of such merchandise and services does not exceed \$1,500.00; and

(3) The words "burial policy," "vault policy," "monument policy" or words of similar import are printed on the policy as a part of its description.

§27-17-2. Policy provisions -- Generally.

No policy of burial insurance shall be delivered or issued for delivery in this state unless it contains in substance the provisions set forth in sections 27-17-3 through 27-17-14, or corresponding provisions, which in the opinion of the commissioner are not less favorable in any respect to the policyholder. Any of such provisions, or portions thereof, not applicable to single premium policies shall to that extent be omitted therefrom.

§27-17-3. Same -- Grace period.

There shall be a provision that the insured is entitled to a grace period of four weeks within which the payment of any premium after the first may be made, except, that, in policies the premiums which are payable monthly or less often, the period of grace shall be one month but not less than 30 days, and that during the period of grace the policy shall continue in full force, but if during the grace period the policy becomes a claim, then any overdue premiums may be deducted from any cash payment which may be due under the policy.

§27-17-4. Same -- Entire contract; representations.

There shall be a provision that the policy shall constitute the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract. If the application is so made a part of the contract, the policy shall also provide that all statements made by the applicant in such application shall, in the absence of fraud, be deemed to be representations and not warranties.

§27-17-5. Same -- Incontestability.

There shall be a provision, with respect to benefits provided in the form of merchandise and services incident to the burial of the insured, that the policy shall be incontestable from its date of issue except for nonpayment of premiums and, with respect to benefits payable in cash, monuments, waiver of premium benefits and disability benefits, a provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of two years from its date of issue, except for nonpayment of premiums and except, at the option of the insurer, as to provisions relating to benefits in event of dismemberment or disability or to additional benefits for death by accident or accidental means.

§27-17-6. Same -- Reinstatement.

(a) There shall be a provision that the policy may be reinstated at any time within two years after the date of default in the payment of any premium unless the policy has been surrendered for its cash value or the period of any extended

insurance provided by the policy has expired, upon evidence of insurability satisfactory to the insurer and the payment of all overdue premiums with interest at a rate not exceeding six percent per annum compounded annually.

(b) Subsections (b) and (c) of section 27-16-9 shall also apply as to burial insurance policies.

§27-17-7. Same -- Authorized funeral director or monument dealer.

There shall be a provision that the insurer has contracted with and appointed an authorized funeral director or monument dealer in this state to furnish the merchandise and services provided by the policy. The policy may also provide that the term "authorized funeral director" or "authorized monument dealer" shall mean a funeral director or monument dealer authorized by the insurer at the time of the insured's death.

§27-17-8. Same -- Furnishing of merchandise and services -- Generally.

There shall be a provision that if the death of the insured or, if a vault or monument policy, the burial of the insured occurs within the state of Alabama and within a specified distance from an authorized funeral director or monument dealer of the insurer, the merchandise and services provided by the policy shall be furnished by such authorized funeral director or monument dealer upon the request of the beneficiary or other person having authority to make funeral arrangements.

§27-17-9. Same -- Same -- Cash benefit in lieu thereof.

There shall be a provision that if the death of the insured or, if a vault or monument policy, the burial of the insured occurs outside the state of Alabama or at a greater distance from an authorized funeral director or monument dealer of the insurer than that specified in section 27-17-8, the insurer will, in lieu of furnishing such merchandise and services, pay a cash benefit of not less than one half of the specified retail value of the merchandise and services provided in the policy; provided, however, that the insurer may provide for a reduced benefit as to an insured less than one year of age at death. The policy may contain a provision for the payment of such cash benefit at the option of the insurer under any other circumstances where it is impractical for any reason to furnish the merchandise and services provided by the policy.

§27-17-10. Same -- Beneficiary.

Each such policy shall have a space for the name of the beneficiary designated with a reservation of the right to designate or change the beneficiary after the issuance of the policy. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured.

§27-17-11. Same -- Payment of cash benefits.

(a) There shall be a provision that any cash benefit provided by the policy

upon the death of the insured will be payable upon receipt of due proof of death of the insured and, at the insurer's option, the surrender of the policy and premium receipt book.

(b) The policy may also provide for the payment of such benefit or any other cash benefit due under the policy to the beneficiary designated in the policy, or to the executor or administrator of the insured, or to any relative of the insured by blood, or legal adoption or connection by marriage or to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attention or burial of the insured.

§27-17-12. Same – Waiver, etc., of policy terms or conditions.

There shall be a provision that no agent shall have the power or authority to waive, change or alter any of the terms or conditions of any policy; except, that, at the option of the insurer, the terms or conditions may be changed by an endorsement signed by a duly authorized officer of the insurer.

§27-17-13. Same – Nonforfeiture benefits and cash surrender values.

There shall be provisions for nonforfeiture benefits and cash surrender values as required by section 27-15-28; except, that, with respect to benefits provided in the form of funeral or monument merchandise and services, the required minimum cash surrender values shall be two thirds of the cash surrender values which would be required for a cash life insurance policy having a face amount equal to the cash benefit provided in accordance with section 27-17-9.

§27-17-14. Same – Title.

There shall be a title on the face of the policy briefly describing the same.

§27-17-15. Applicability of other provisions to chapter.

The following provisions of this title shall also apply as to burial insurance policies:

- (1) Section 27-15-15;
- (2) Section 27-15-24;
- (3) Section 27-15-25;
- (4) Section 27-15-29; and
- (5) Section 27-16-16.

§27-17-16. Valuation of life insurance reserve liabilities for burial insurance policies; increase in amount of insurance; minimum standards for valuation; notice to commissioner as to change in valuation standards; increase in retail value, nonforfeiture value, and cash surrender value; construction with other laws.

(a) Except as hereinafter provided, any authorized insurer who issues or has heretofore issued "burial insurance" in this state shall value the life insurance

reserve liabilities for such policies (hereinafter "burial reserves") in accordance with the provisions of section 27-36-7.

(b) An insurer shall increase the amount of insurance on which its burial reserves are based, not to exceed the retail value of such benefits as stated in the policies, when appropriate to reflect an increase in the costs to the insurer of providing the policy benefits. When an insurer shall increase the amount of insurance for this purpose, it shall be permitted to change the assumed interest rate and the valuation mortality table for computing such reserves, provided that the resulting reserves after such increase in amount of insurance and change in assumed interest rate or valuation mortality table, or both, shall not be less than the reserves before such changes, and provided further that the reserves shall not be less than those calculated using the minimum standards set forth below.

(c) The minimum standards for valuation of burial reserves under this chapter shall be:

(1) An assumed interest rate not exceeding six percent per annum;

(2) The commissioners 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by the commissioner for use in determining the minimum standard of valuation for such policies; and

(3) The commissioners reserve valuation method as defined by section 27-36-7(e), as may be amended from time to time.

(d) Prior to the filing date of the annual statement for the year in which the insurer intends to change the assumed interest rate or the valuation mortality tables, or both, used in the valuation of burial reserves as permitted under this chapter, the insurer shall communicate in writing to the commissioner the valuation standards to be used in such calculation. The insurer shall as to each block of business specify the interest rate, mortality table, valuation method, and amount of insurance to be used in the reserve calculation. "Block of business" shall mean a logical and identifiable grouping of policies as specified by the insurer in its written notice to the commissioner.

(e) Nothing in this chapter shall be construed as authorizing or requiring an increase in the retail value of the policies or in the nonforfeiture values, including the cash surrender values of subject burial insurance policies.

(f) To the extent that other laws or parts of laws may be construed as being applicable to the calculation of burial reserves, the provisions of this chapter shall take precedence over and supersede said provisions to the extent necessary to effectuate the intent of this chapter.

§27-18-1. Applicability of chapter.

This chapter applies only as to group life insurance contracts hereafter issued and does not apply as to group life insurance contracts heretofore issued or to any amendment or renewal of such heretofore issued contracts.

§27-18-2. Policy provisions -- Generally.

No policy of group life insurance shall be delivered in this state unless it contains in substance the applicable provisions set forth in sections 27-18-3 through 27-18-13, or provisions which in the opinion of the commissioner are more favorable to the persons insured or at least as favorable to the persons insured and more favorable to the policyholder; except, however, that:

(1) Sections 27-18-9 and 27-18-13 inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor;

(2) The standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and

(3) If the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision, or provisions, which, in the opinion of the commissioner, is, or are, equitable to the insured persons and to the policyholder, but nothing in this section shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies.

§27-18-3. Same -- Grace period.

The group life insurance policy shall contain a provision that the policyholder is entitled to a grace period of not less than 30 days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

§27-18-4. Same -- Incontestability.

The group life insurance policy shall contain a provision that the validity of the policy shall not be contested, except for nonpayment of premium, after it has been in force for two years from its date of issue and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by him. (Code 1940, T. 28, §7; Acts 1967, No. 181, p. 543; Acts 1971, No. 407, p. 707, §410.)

§27-18-5. Same -- Copy of application; representations; statements as evidence.

The group life insurance policy shall contain a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties and that no statement made by any person insured shall be used in any contest unless a copy of the instrument

containing the statement is or has been furnished to such person or to his beneficiary. (Code 1940, T. 28, §6; Acts 1971, No. 407, p. 707, §411.)

§27-18-6. Same -- Insurability.

The group life insurance policy shall contain a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability, satisfactory to the insurer as a condition to part or all of his coverage.

§27-18-7. Same -- Adjustment of premiums and/or benefits.

The group life insurance policy shall contain a provision specifying an equitable adjustment of premiums or of benefits, or of both, to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

§27-18-8. Same -- Furnishing of statement to debtors.

In the case of a policy issued to a creditor to insure debtors of such creditor, there shall be a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which will contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness.

§27-18-9. Same -- Payment of benefits.

The group life insurance policy shall contain a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary as to all, or any part, of such sum living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding \$500.00 to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

§27-18-10. Same -- Individual certificates.

The group life insurance policy shall contain a provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable and the rights and conditions set forth in sections 27-18-11, 27-18-12 and 27-18-13.

§27-18-11. Same -- Conversion -- Termination of eligibility.

The group life insurance policy shall contain a provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class, or classes, eligible for coverage under the policy, such person shall be entitled to have issued to him by

the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made and the first premium paid to the insurer within 31 days after such termination and provided, further, that:

(1) The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

(2) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination less the amount of any life insurance for which such person is, or becomes, eligible under any other group policy within 31 days after such termination, provided that any amount of insurance which shall have matured on, or before, the date of such termination as an endowment payable to the person insured, whether in one sum, or in installments or in the form of an annuity shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

(3) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs and to his age attained on the effective date of the individual policy.

§27-18-12. Same -- Same -- Termination of policy.

The group life insurance policy shall contain a provision that if the group policy terminates, or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by section 27-18-11; except, that the group policy may provide that the amount of such individual policy shall not exceed the smaller of:

(1) The amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is, or becomes, eligible under any group policy issued or reinstated by the same or another insurer, within 31 days after such termination; and

(2) \$2,000.00.

§27-18-13. Same -- Same -- Death during conversion period.

The group life insurance policy shall contain a provision that if a person insured under the policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with sections 27-18-11 and 27-18-12 and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

§27-18-14. Notice as to conversion rights.

If any individual insured under a group life insurance policy hereafter delivered in this state becomes entitled under the terms of such policy to have an individual policy of life insurance issued to him without evidence of insurability, subject to making of application and payment of the first premium within the period specified in such policy, and if such individual is not given notice of the existence of such right at least 15 days prior to the expiration date of such period, then, in such event, the individual shall have an additional period within which to exercise such right, but nothing contained in this section shall be construed to continue any insurance beyond the period provided in such policy. This additional period shall expire 15 days next after the individual is given such notice, but in no event shall such additional period extend beyond 60 days next after the expiration date of the period provided in such policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section.

§27-18-15. Employee life insurance.

"Employee life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where such policies are issued on the lives of not less than three employees at date of issue. Premiums for such policies shall be paid by the employer or the trustee of a fund established by the employer either wholly from the employer's funds, or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees or from funds contributed wholly by the insured employees.

§27-18-16. Assignment of rights and benefits under group policies.

Any person insured under a group insurance policy may, in accordance with section 27-14-21 and pursuant to the terms of such policy or an arrangement among the insured, the group policyholder and the insurer, make an assignment of the rights and benefits conferred by any provision of such policy or by law, including specifically, but not by way of limitation, the right to have issued to the insured an individual policy arising from conversion or otherwise and the right to name a beneficiary. Any assignment permitted in this section, whether made before or after January 1, 1972, shall be valid for the purpose of vesting in the assignee all such rights and benefits so assigned and shall entitle the insurer to deal with the assignee as the owner of all rights and benefits conferred on the insured under the policy in accordance with the terms of the assignment without prejudice to the insurer on account of any payment it may make or any individual policy it may issue arising from conversion prior to receipt at its home office of written notice of such assignment. This section acknowledges, declares and codifies the right of assignment of interest under like insurance policies existing prior to the enactment of this title.

§27-19-1. Applicability of article.

Nothing in this article shall apply to or affect:

(1) Any policy of liability or workmen's compensation insurance, with or without supplementary expense coverage therein;

(2) Any group or blanket policy;

(3) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to disability insurance as:

a. Provide additional benefits in case of death or dismemberment or loss of sight by accident; or

b. Operate to safeguard such contracts against lapse or to give a special surrender value, or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract;

(4) Reinsurance; or

(5) Industrial insurance, which is disability insurance issued under policies sold on a debit basis, bearing the words "industrial policy" imprinted on the face of the policy as part of the descriptive matter, and with premiums payable monthly or more often.

§27-19-2. Scope and format of policy.

No policy of disability insurance shall be delivered, or issued for delivery, to any person in this state unless it otherwise complies with this title and complies with the following:

(1) The entire money and other considerations therefor shall be expressed therein;

(2) The time when the insurance takes effect and terminates shall be expressed therein;

(3) It shall purport to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of the family, who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age and any other person dependent upon the policyholder;

(4) The style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than 10 point with a lower case unspaced alphabet length not

less than 120 point; the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions;

(5) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in sections 27-19-4 through 27-19-26, shall be printed, at the insurer's option, either included with the benefit provision to which they apply or under an appropriate caption such as "Exceptions," or "Exceptions and Reductions;" except, that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

(6) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks or short-rate table filed with the commissioner.

§27-19-3. Mandatory policy provisions -- Generally.

(a) Except as provided in subsection (b) of this section, each such policy delivered, or issued for delivery, to any person in this state shall contain the provisions specified in sections 27-19-4 through 27-19-15, in the words in which the same appear; except, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision shall be preceded individually by the applicable caption shown or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(b) If any such provision is, in whole or in part, inapplicable to, or inconsistent with, the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision, or part of a provision, and shall modify any inconsistent provision, or part of a provision, in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

§27-19-4. Same -- Entire contract; changes.

There shall be a provision as follows:

"Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions."

§27-19-5. Same -- Time limit on certain defenses.

There shall be a provision as follows:

"Time Limit on Certain Defenses: (1) After two years from the date of issue of this policy, no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period."

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period nor to limit the application of sections 27-19-17 through 27-19-21 in the event of misstatement with respect to age or occupation or other insurance.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium:

(1) Until at least age 50; or

(2) In the case of a policy issued after age 44, for at least five years from its date of issue may contain in lieu of the foregoing the following provision, from which the clause in parentheses may be omitted at the insurer's option, under the caption "Incontestable":

"After this policy has been in force for a period of two years during the lifetime of the insured, excluding any period during which the insured is disabled, it shall become incontestable as to the statements contained in the application.)"

"(2) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy."

§27-19-6. Same – Grace period.

There shall be a provision as follows:

"Grace Period: A grace period of . . . (insert a number not less than '7' for weekly premium policies, '10' or monthly premium policies and '31' for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force."

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision,

"Unless not less than 30 days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted."

§27-19-7. Same – Reinstatement.

There shall be a provision as follows:

"Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than 10 days after such date. In all other respects, the insured and the insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement."

The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums:

(1) Until at least age 50; or

(2) In the case of a policy issued after age 44, for at least five years from its date of issue.

§27-19-8. Same -- Notice of claim; notice of disability continuance.

There shall be a provision as follows:

"Notice of Claim: Written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by, or on behalf of, the insured or the beneficiary to the Insurer at _____ (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer."

In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may, at its option, insert the following between the first and second sentences of the above provision:

"Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of the claim, give to the insurer notice of continuance of the disability, except in the event of legal incapacity. The period of six months following any filing of proof by the

insured or any payment by the insurer on account of such claim or any denial of liability, in whole or in part, by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given."

§27-19-9. Same -- Claim forms.

There shall be a provision as follows:

"Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within 15 days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made."

§27-19-10. Same -- Proofs of loss.

There shall be a provision as follows:

"Proofs of Loss: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and, in case of claim for any other loss, within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required."

§27-19-11. Same -- Time of payment of claims.

There shall be a provision as follows:

"Time of Payment of Claims: Indemnities payable under this policy for any loss, other than loss for which this policy provides periodic payment, will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid _____ (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof."

§27-19-12. Same -- Payment of claims.

There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the

estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured."

The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

"If any indemnity of this policy shall be payable to the estate of the insured or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$_____ (insert an amount which shall not exceed \$1,000.00), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment."

"Subject to any written direction of the insured in the application or otherwise, all, or a portion of any, indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proof of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person."

§27-19-13. Same – Physical examination and autopsy.

There shall be a provision as follows:

"Physical Examinations and Autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when, and as often as, it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law."

§27-19-14. Same – Legal actions.

There shall be a provision as follows:

"Legal Actions: No action shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished."

§27-19-15. Same – Change of beneficiary.

There shall be a provision as follows:

"Change of Beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change a beneficiary is reserved to the insured and the consent of the beneficiary, or beneficiaries, shall not be requisite to surrender or assignment of this policy or to any change of beneficiary, or beneficiaries, or to any other changes in this policy."

(The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.)

§27-19-16. Optional policy provisions – Generally.

Except as provided in subsection (b) of section 27-19-3, no such policy delivered, or issued for delivery, to any person in this state shall contain provisions respecting the matters set forth in sections 27-19-17 through 27-19-26 unless such provisions are in the words in which the same appear in the applicable section; except, that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption or, at the option of the insurer, by such appropriate individual, or group captions or subcaptions as the commissioner may approve.

§27-19-17. Same -- Change of occupation.

There may be a provision as follows:

"Change of Occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

§27-19-18. Same -- Misstatement of age.

There may be a provision as follows:

"Misstatement of Age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age."

§27-19-19. Same -- Other insurance in this insurer.

There may be a provision as follows:

"Other Insurance in This Insurer: If an accident or sickness or accident and sickness policy, or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for _____ (insert type of coverage or coverages) in excess of \$_____ (insert maximum limit of indemnity or indemnities), the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate."

Or, in lieu thereof:

"Insurance effective at any one time on the insured under a like policy, or policies, in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies."

§27-19-20. Same -- Insurance with other insurers -- Expense incurred benefits.

(a) There may be a provision as follows:

"Insurance with Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense-incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the 'like amount' of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage."

(b) If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 27-19-21 there shall be added to the caption of the foregoing provision the phrase "--Expense-Incurred Benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this, or any other, state of the United States or any province of Canada, and by hospital or medical service organizations and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition, such term shall not include group insurance, automobile medical payments insurance or coverage provided by hospital, or medical service organizations, or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any workmen's compensation or employer's liability statute, whether provided by a governmental agency or otherwise, shall, in all cases, be deemed to be "other valid coverage" of

which the insurer has had notice. In applying the foregoing policy provision, no third party liability coverage shall be included as "other valid coverage."

§27-19-21. Same -- Same -- Other benefits.

(a) There may be a provision as follows:

"Insurance with Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense-incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined."

(b) If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 27-19-20, there shall be added to the caption of the foregoing provision the phrase "--Other Benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this, or any other, state of the United States or any province of Canada and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition, such term shall not include group insurance or benefits provided by union welfare plans, or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any workmen's compensation or employer's liability statute, whether provided by a governmental agency or otherwise, shall, in all cases, be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision, no third party liability coverage shall be included as "other valid coverage."

§27-19-22. Same -- Relation of earnings to insurance.

(a) There may be a provision as follows:

"Relation of Earnings to Insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not

operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of \$200.00 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time."

(b) The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums:

(1) Until at least age 50; or

(2) In the case of a policy issued after age 44, for at least five years from its date of issue.

The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this, or any other, state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition, such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute including any workmen's compensation or employer's liability statute, or benefits provided by union welfare plans or by employer or employee benefit organizations.

§27-19-23. Same – Unpaid premiums.

There may be a provision as follows:

"Unpaid Premiums: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom."

§27-19-24. Same – Conformity with state statutes.

There may be a provision as follows:

"Conformity with State Statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes."

§27-19-25. Same – Illegal occupation.

There may be a provision as follows:

"Illegal Occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of, or attempt to commit, a felony or to which a contributing cause was the insured's being engaged in an illegal occupation."

§27-19-26. Same -- Intoxicants and narcotics.

There may be a provision as follows:

"Intoxicants and Narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician."

§27-19-27. Order of provisions in policy.

The provisions which are the subject of sections 27-19-4 through 27-19-26, or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy with other provisions to which it may be logically related, provided that the resulting policy shall not be, in whole or in part, unintelligible, uncertain, ambiguous, abstruse or likely to mislead a person to whom the policy is offered, delivered or issued.

§27-19-28. Exclusion of hospitalization benefits for mental patients in tax-supported institutions.

(a) No policy of health, sickness or accident insurance delivered, or issued for delivery, in this state, including both individual and group policies, which provide coverage for psychiatric treatment or mental illness shall exclude hospitalization benefits for mental patients in tax-supported institutions of the state of Alabama, or any county or municipality thereof.

(b) The provisions of this section shall not apply to any policy of insurance in effect prior to September 20, 1971, nor shall the provisions of this section apply to any employee benefit plan providing hospital benefits for mental patients where such employee benefit plan is established by the employer and contributions to the plan are provided by the employer and the employee, or either of them, and such plan is not evidenced by individual, or group or blanket policies of health, sickness or accident insurance issued by an insurance company.

§27-19-29. Ownership in person other than insured.

The word "insured," as used in this article, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

§27-19-30. Provisions of other jurisdictions.

(a) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this article and which is prescribed or required by the law of the state or country under which the insurer is organized.

(b) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

§27-19-31. Renewability.

(a) Every individual policy of insurance providing hospital, medical or surgical benefits in which an insurer reserves the right to refuse renewal on an individual basis shall provide, in substance, in a provision thereof, or in an endorsement thereon or in a rider attached thereto that, subject to the right to terminate the policy upon nonpayment of premium when due, such right to refuse renewal shall not be exercised before the renewal date occurring on, or after and nearest, each policy anniversary or, in the case of lapse and reinstatement, before the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement and that any refusal of renewal shall be without prejudice to any claim originating while the policy is in force. Subject to the right to terminate for nonpayment of premium, the right to refuse renewal by an insurer shall only be exercised after having given the insured no less than 30 days' notice in writing of the intent not to renew.

(b) Every individual disability insurance policy which is subject to renewal at the option of the insurer shall so indicate in a prominently captioned statement on the first page of such policy.

§27-19-32. Examination and return of policy.

Every individual disability insurance policy, except single premium nonrenewable policies or contracts, issued for delivery in the state of Alabama shall have printed thereon, or attached thereto, a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within 10 days of its delivery to such purchaser and to have the premium paid refunded if, after examination of the policy, the purchaser is not satisfied with it for any reason. If a policyholder or purchaser, pursuant to such notice, returns the policy or contract to the insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy or contract has been issued.

§27-19-33. Addition of endorsements or riders to existing policies.

Any insurer writing disability insurance policies may, with approval of the commissioner, add endorsements or riders to existing policies of such insurance, with or without increase in premium, provided there is shown separately on the endorsement or rider a stated premium charge for additional coverage.

§27-19-34. Compliance with article by rider or endorsement.

The requirements of this article may be complied with by the insurer by attaching to the policy such rider or endorsement as may be necessary for the purpose.

§27-19-35. Construction of policy provisions.

(a) No policy provision which is not subject to this article shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to this article.

(b) A policy delivered, or issued for delivery, to any person in this state in violation of this article shall be held valid but shall be construed as provided in this article. When any provision in a policy subject to this article is in conflict with any provision of this article, the rights, duties and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this article.

§27-19-36. Age limit or date for termination of coverage.

If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective or would have ceased prior to the acceptance of such premium, or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

§27-19-37. Disability insurance on franchise plan.

Disability insurance on a franchise plan is hereby declared to be that form of disability insurance issued to:

(1) Three or more employees of any corporation, copartnership or individual employer, or any governmental corporation, agency or department thereof; or

(2) Ten or more members, employees or employees of members of any trade or professional association, or of a labor union or of any other association having had an active existence for at least two years where such association or union has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance where such persons, with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association for its members or by some designated person acting on behalf of such employer or association or union. The term "employees" as used in this section may be deemed to include the officers, managers, employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership.

§27-19-38. Coverage of newly born children in health insurance policies.

(a) All individual and group health insurance policies providing coverage on an expense-incurred basis and individual and group service or indemnity type contracts issued by a nonprofit service corporation which provide coverage for a

family member of the insured or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.

(b) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities, but need not include benefits for routine well-baby care.

(c) The requirements of this section shall apply to all insurance policies and subscriber contracts renewed, delivered or issued for delivery in this state, 60 days after April 24, 1975.

§27-19-39. Policies, etc., providing for reimbursement for visual service.

Whenever any policy of insurance or any medical service plan or hospital service contract or hospital and medical service contract provides for reimbursement for any visual service in Alabama which is within the lawful scope of practice of a duly licensed optometrist, as defined in section 34-22-1, the insured or other person entitled to benefits under such policy shall be entitled to reimbursement for such services, whether such services are performed by a duly licensed physician or by a duly licensed optometrist, whichever the insured selects, notwithstanding any provision to the contrary in any statute or in such policy, plan or contract. Duly licensed optometrists shall be entitled to participate in such policies, plans or contracts providing for visual services to the same extent as fully licensed physicians.

ARTICLE 2

MEDICARE SUPPLEMENT POLICY MINIMUM STANDARDS.

§27-19-50. Short title.

This article shall be known and may be cited as the "Alabama Medicare Supplement Minimum Standards Act."

§27-19-51. Purpose of article.

The purpose of this article is to establish certain definitions, policy provisions, anticipated loss ratio standards and disclosure requirements applicable to group and individual Medicare supplement disability policies and to authorize the implementation of these requirements through regulations promulgated by the commissioner of insurance consistent with the uniform standards developed by the National Association of Insurance Commissioners to meet the standards enacted in Public Law 96-265 (Laws 1980).

§27-19-52. Definitions.

For purposes of this article, the following terms shall have the meaning indicated herein:

(1) APPLICANT. Such term means:

a. In the case of an individual Medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits, and

b. In the case of a group Medicare supplement policy or subscriber contract, the proposed certificate holder.

(2) CERTIFICATE. Any certificate issued under a group Medicare supplement policy, which policy has been delivered or issued for delivery in this state.

(3) MEDICARE SUPPLEMENT POLICY. A group or individual policy of disability insurance or a nonprofit hospital and medical plan contract which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare. Such term does not include:

a. A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations;

b. A policy or contract of any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

1. Is composed of individuals all of whom are actively engaged in the same profession, trade or occupation;

2. Has been maintained in good faith for purposes other than obtaining insurance; and

3. Has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members; or

c. Individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when such group or individual policy or contract includes provisions which are inconsistent with the requirements of this article.

(4) MEDICARE. The "Health Insurance for the Aged Act", Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

§27-19-53. Standards for policy provisions generally; policy provisions as to coverage of pre-existing conditions.

(a) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of Medicare supplement policies. Such standards shall be in addition to and in accordance with applicable laws of this state, including article 1 of this chapter and chapter 20 of this title, and may cover but shall not be limited to:

- (1) Terms of renewability;
- (2) Initial and subsequent conditions of eligibility;
- (3) Nonduplication of coverage;
- (4) Probationary periods;
- (5) Benefit limitations, exceptions and reductions;
- (6) Elimination periods;
- (7) Requirements for replacement;
- (8) Recurrent conditions; and
- (9) Definition of terms.

(b) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair or unfairly discriminatory to any person insured or proposed for coverage under a Medicare supplement policy.

(c) Notwithstanding any other provisions of law, a Medicare supplement policy may not deny a claim for loss incurred more than six months from the effective date of coverage for a pre-existing condition. The policy may not define a pre-existing condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

§27-19-54. Minimum standards for benefits generally.

The commissioner shall issue reasonable regulations to establish minimum standards for benefits under Medicare supplement policies.

§27-19-55. Standards for loss ratios.

(a) Medicare supplement policies shall be expected to return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of Medicare supplement policies on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices.

(b) For purposes of regulations issued pursuant to this section, Medicare supplement policies issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

§27-19-56. Requirements as to provision in policy of outline of coverage and information relating to replacement of disability policies, subscriber contracts, etc.

(a) In order to provide for full and fair disclosure in the sale of Medicare supplement policies to persons eligible for Medicare, the commissioner may require by regulation that no Medicare supplement policy may be delivered or issued for delivery in this state and no certificate may be delivered pursuant to a group Medicare supplement policy delivered or issued for delivery in this state unless an outline of coverage is delivered to the applicant at the time application is made.

(b) The commissioner shall prescribe the format and content of the outline of coverage required by subsection (a) of this section. For purposes of this section "format" means style, arrangements and overall appearance, including such items as the size, color and prominence of type and the arrangement of text and captions. Such outline of coverage shall include:

(1) A description of the principal benefits and coverage provided in the policy;

(2) A statement of the exceptions, reductions and limitations contained in the policy;

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change the premiums; and

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(c) The commissioner may prescribe by regulation a standard form and the contents of an informational brochure for persons eligible for Medicare, which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insureds eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insureds eligible for Medicare, but in no event later than the time of policy delivery.

(d) The commissioner may further promulgate reasonable regulations to govern the full and fair disclosure of the information in connection with the replacement of disability policies, subscriber contracts or certificates by persons eligible for Medicare, other than:

(1) Medicare supplement policies;

(2) Disability income policies;

(3) Basic, catastrophic, or major medical expense policies;

- (4) Single premium, nonrenewable policies; or
- (5) Other policies defined in paragraph (3) of section 27-19-52.

(e) The commissioner may further promulgate reasonable regulations to govern the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, subscriber contracts or certificates by persons eligible for Medicare.

§27-19-57. Inclusion in policy of notice of right to return policy and receive refund of premium.

(a) Medicare supplement policies or certificates, other than those issued pursuant to direct response solicitation, shall have a notice prominently printed on the first page of the policy, or attached thereto, stating in substance that the applicant shall have the right to return the policy or certificate within 10 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

(b) Medicare supplement policies or certificates issued pursuant to a direct response solicitation to persons eligible for Medicare shall have a notice prominently printed on the first page, or attached thereto, stating in substance that the applicant shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination, the applicant is not satisfied for any reason.

§27-19-58. Applicability of provisions of title to regulations promulgated pursuant to article.

Regulations promulgated pursuant to this article shall be subject to the provisions of chapter 2 of this title.

§27-19A-1. Scope of chapter.

This chapter shall apply to health insurance and employee benefit plans providing for dental care services.

§27-19A-2. Definitions.

As used in this chapter, the following terms shall have the respective meanings herein set forth, unless the context shall otherwise require:

- (1) **ALABAMA INSURANCE CODE.** Title 27 of the Code of Alabama 1975.
- (2) **INSURER.** Such term shall have the meaning ascribed in section 27-1-2.
- (3) **PERSON.** Such term shall have the meaning ascribed in section 27-1-2.
- (4) **COMMISSIONER and DEPARTMENT.** Such terms, respectively, shall have the meanings ascribed in section 27-1-2.

(5) **CONTRACTUAL OBLIGATION.** Any obligation under covered policies or employee benefit plans.

(6) **COVERED POLICY or PLAN.** Any policy, employee benefit plan or contract within the scope of this chapter.

(7) **HEALTH INSURANCE POLICY.** Any individual, group, blanket, or franchise insurance policy, insurance agreement, or group hospital service contract providing benefits for dental care expenses incurred as a result of an accident or sickness.

(8) **EMPLOYEE BENEFIT PLAN.** Any plan, fund, or program heretofore or hereafter established or maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund, or program was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, dental care benefits in the event of accident or sickness.

(9) **DENTAL CARE SERVICES.** Any services furnished to any person for the purpose of preventing, alleviating, curing, or healing human dental illness or injury.

(10) **DENTIST.** Any person who furnishes dental care services and who is licensed as a dentist by the state of Alabama.

§27-19A-3. Prohibited provisions.

No health insurance policy or employee benefit plan which is delivered, renewed, issued for delivery, or otherwise contracted for in this state shall:

(1) Prevent any person who is a party to or beneficiary of any such health insurance policy or employee benefit plan from selecting the dentist of his choice to furnish the dental care services offered by said policy or plan or interfere with said selection provided the dentist is licensed to furnish such dental care services in this state;

(2) Deny any dentist the right to participate as a contracting provider for such policy or plan provided the dentist is licensed to furnish the dental care services offered by said policy or plan;

(3) Authorize any person to regulate, interfere, or intervene in any manner in the diagnosis or treatment rendered by a dentist to his patient for the purpose of preventing, alleviating, curing, or healing dental illness or injury provided said dentist practices within the scope of his license; or

(4) Require that any dentist furnishing dental care services must make or obtain dental X rays or any other diagnostic aids for the purpose of preventing, alleviating, curing, or healing dental illness or injury; provided, however, that nothing herein shall prohibit requests for existing dental X rays or any other existing diagnostic aids for the purpose of determining benefits payable under a health insurance policy or employee benefit plan.

Nothing herein shall prohibit the predetermination of benefits for dental care expenses prior to treatment by the attending dentist.

§27-19A-4. Required provisions.

Any health insurance policy or employee benefit plan which is delivered, renewed, issued for delivery, or otherwise contracted for in this state shall, to the extent that it provides benefits for dental care expenses:

(1) Disclose, if applicable, that the benefit offered is limited to the least costly treatment;

(2) Define and explain the standard upon which the payment of benefits or reimbursement for the cost of dental care services is based, such as "usual and customary," "reasonable and customary," "usual, customary, and reasonable," fees or words of similar import or specify in dollars and cents the amount of the payment or reimbursement for dental care services to be provided. Said payment or reimbursement for a noncontracting provider dentist shall be the same as the payment or reimbursement for a contracting provider dentist; provided, however, that the health insurance policy or the employee benefit plan shall not be required to make payment or reimbursement in an amount which is greater than the amount so specified or which is greater than the fee charged by the providing dentist for the dental care services rendered.

§27-19A-5. Provisions contrary to chapter.

Any provision in a health insurance policy or employee benefit plan which is delivered, renewed, issued for delivery, or otherwise contracted for in this state which is contrary to this chapter shall to the extent of such conflict be void.

§27-19A-6. Dental benefits not required.

The provisions of this chapter do not mandate that any type of benefits for dental care expenses be provided by a health insurance policy or an employee benefit plan.

§27-19A-7. Contracting directly with patient; distribution of information about policy or plan; payment and reimbursement procedures.

The provisions of this chapter do not prohibit the following conduct and shall be construed to provide that:

(1) A dentist may contract directly with a patient for the furnishing of dental care services to said patient as may be otherwise authorized by law;

(2) Any person providing a health insurance policy or employee benefit plan, or an employer, or an employee organization may:

a. Make available to its insureds, beneficiaries, participants, employees, or members information relating to dental care services by the distribution of factually accurate information regarding dental care services, rates, fees, location, and hours of service, provided such distribution is made upon the request of any dentist licensed by this state; or

b. Establish an administrative mechanism which facilitates payment for dental care services by insureds, beneficiaries, participants, employees, or members to the dentist of their choice; or

c. Pay or reimburse, on a nondiscriminatory basis, its insureds, beneficiaries, participants, employees, or members for the cost of dental care services rendered by the dentist of their choice.

§27-19A-8. Plans not in conformance with chapter unlawful.

It shall be unlawful for any insurer or any person to provide any health insurance policy or employee benefit plan providing for dental care services that does not conform to the provisions of this chapter.

§27-19A-9. Nonconforming policies and plans not to be approved by commissioner.

The commissioner of insurance shall not approve for sale in this state any health insurance policy or employee benefit plan providing for dental care services which does not conform to the provisions of this chapter or to the provisions of sections 27-14-8 and 27-14-9.

§27-19A-10. Duty of commissioner to enforce chapter.

It shall be the duty and responsibility of the commissioner of insurance to enforce the provisions of this chapter.

§27-19A-11. Penalty for violations.

Each willful violation of the provisions of this chapter shall be punishable as provided in section 27-1-12.

§27-20-1. Group disability insurance -- Eligible groups.

Group disability insurance is hereby declared to be that form of disability insurance covering groups of persons as defined in this section, with or without one or more members of their families or one or more of their dependents, or covering one or more members of the families or one or more dependents of such groups of persons, and issued upon the following basis:

(1) Under a policy issued to an employer or trustees of a fund established by an employer, who shall be deemed the policyholder, insuring employees of such employer for the benefit of persons other than the employer. The term "employees" as used in this subdivision shall be deemed to include the officers, managers and employees of the employer, the individual proprietor or partner if the employer is an individual proprietor or partnership, the officers, managers and employees of subsidiary or affiliated corporations and the individual proprietors, partners and employees of individuals and firms if the business of the employer and such individual or firm is under common control through stock ownership, contract or otherwise. The term "employees" as used in this subdivision may include retired employees. A policy issued to insure employees of a public body may provide that the term "employees" shall include elected or appointed officials.

The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;

(2) Under a policy issued to an association, including a labor union, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring members, employees or employees of members of the association for the benefit of persons other than the association or its officers or trustees. The term "employees" as used in this subdivision may include retired employees;

(3) Under a policy issued to the trustees of a fund established by two or more employers in the same or related industry, or by one or more labor unions, or by one or more employers and one or more labor unions or by an association as defined in subdivision (2) of this section, which trustees shall be deemed the policyholder, to insure employees of the employers, or members of the unions or of such association or employees of members of such association for the benefit of persons other than the employers, or the unions or such association. The term "employees" as used in this subdivision may include the officers, managers and employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership. The term "employees" as used in this subdivision may include retired employees. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;

(4) Under a policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this state to insure any class, or classes, of individuals that could be insured under such group life policy;

(5) Under a policy issued to cover any other substantially similar group which, in the discretion of the commissioner, may be subject to the issuance of a group disability policy or contract; or

(6) Any group disability policy which contains provisions for the payment by the insurer of benefits for expenses incurred on account of hospital, nursing, medical or surgical services for members of the family or dependents of a person in the insured group may provide for the continuation of such benefit provisions or any part, or parts, thereof after the death of the person in the insured group.

§27-20-2. Same -- Mandatory policy provisions.

Each such group disability insurance policy shall contain in substance the following provisions:

(1) A provision that, in the absence of fraud, all statements made by applicants, or the policyholders or by an insured person shall be deemed representations and not warranties and that no statement made for the purpose of effecting insurance shall void such insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to such policyholder or to such person or his beneficiary;

(2) A provision that the insurer will furnish to the policyholder for delivery to each employee, or member of the insured group, a statement in summary form of the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit; and

(3) A provision that to the group originally insured may be added from time to time eligible new employees, or members or dependents, as the case may be, in accordance with the terms of the policy.

§27-20-3. Same -- Direct payment of those rendering services.

Any group disability policy may, on request by the group policyholder, provide that all, or any portion, of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

§27-20-4. Blanket disability insurance -- Eligible groups.

Blanket disability insurance is hereby declared to be that form of disability insurance covering groups of persons as enumerated in one of the following subdivisions:

(1) Under a policy or contract issued to any common carrier or to any operator, owner or lessee of a means of transportation, who or which shall be deemed the policyholder, covering a group of persons who may become passengers defined by reference to their travel status on such common carrier or such means of transportation;

(2) Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering any group of employees, dependents or guests, defined by reference to specified hazards incident to an activity, or activities, or operations of the policyholder;

(3) Under a policy or contract issued to a college, school or other institution of learning, a school district or districts, or school jurisdictional unit or to the head, principal or governing board of any such educational unit, who or which shall be deemed the policyholder, covering students, teachers or employees;

(4) Under a policy or contract issued to any religious, charitable, recreational, educational or civic organization, or branch thereof, which shall be deemed the policyholder covering any group of members or participants defined by reference to specified hazards incident to an activity, or activities, or operations sponsored or supervised by such policyholder;

(5) Under a policy or contract issued to a sports team, camp or sponsor thereof, which shall be deemed the policyholder, covering members, campers, employees, officials or supervisors;

(6) Under a policy or contract issued to any volunteer fire department, first aid, civil defense or other such volunteer organization, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity, or activities, or operations sponsored or supervised by such policyholder;

(7) Under a policy or contract issued to a newspaper or other publisher, which shall be deemed the policyholder, covering its carriers;

(8) Under a policy or contract issued to an association, including a labor union, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity, or activities, or operations sponsored or supervised by such policyholder; or

(9) Under a policy or contract issued to cover any other risk or class of risks which, in the discretion of the commissioner, may be properly eligible for blanket disability insurance. The discretion of the commissioner may be exercised on an individual risk basis or class of risks, or both.

§27-20-5. Same -- Power to issue; filing requirement; mandatory policy provisions.

Any insurer authorized to write disability insurance in this state shall have the power to issue blanket disability insurance. No such blanket policy may be issued or delivered in this state unless a copy of the form thereof shall have been filed in accordance with section 27-14-8. Every such blanket policy shall contain provisions which, in the opinion of the commissioner, are at least as favorable to the policyholder and the individual insured as the following:

(1) A provision that the policy, including endorsements and a copy of the application, if any, of the policyholder and the persons insured shall constitute the entire contract between the parties, and that any statement made by the policyholder or by a person insured shall, in absence of fraud, be deemed a representation and not a warranty and that no such statements shall be used in defense to a claim under the policy unless contained in a written application. Such person, his beneficiary or assignee shall have the right to make written request to the insurer for a copy of such application, and the insurer shall, within 15 days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action based upon, or involving, any statements contained therein;

(2) A provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when such sickness or injury occurred. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible;

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(3) A provision that the insurer will furnish to the policyholder such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of 15 days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character and extent of the loss for which claim is made;

(4) A provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within 30 days after the commencement of the period for which the insurer is liable, that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require and that, in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within 90 days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to furnish such proof and that such proof was furnished as soon as was reasonably possible;

(5) A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of due written proof of such loss, that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time will be paid not later than at the expiration of each period of 30 days during the continuance of the period for which the insurer is liable and that any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof;

(6) A provision that the insurer, at its own expense, shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make any autopsy in case of death where it is not prohibited by law; and

(7) A provision that no action shall be brought to recover under the policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

§27-20-6. Same -- Applications and certificates.

An individual application shall not be required from a person covered under a blanket disability policy or contract, nor shall it be necessary for the insurer to furnish each person a certificate.

§27-20-7. Same -- Payment of benefits.

All benefits under any blanket disability policy shall be payable to the person insured, or to his employer, or to his designated beneficiary or beneficiaries or to his estate; except, that if the person insured be a minor or mental incompetent, such benefits may be made payable to his parent, guardian or other person actually supporting him, or, if the entire cost of the insurance has been borne by

the employer, such benefits may be made payable to the employer; provided, however, that the policy may provide that all, or any portion, of any indemnities provided by such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

§27-20A-1. Definitions.

The following words and phrases used in this chapter, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication otherwise, be given the following respective interpretations herein:

(1) **ALCOHOLISM.** A chronic disorder or illness in which the individual is unable, for psychological or physical reasons, or both, to refrain from the frequent consumption of alcohol in quantities sufficient to produce intoxication and, ultimately, injury to health and effective functioning.

(2) **DETOXIFICATION.** Supervised physical withdrawal from alcohol.

(3) **INPATIENT TREATMENT FOR ALCOHOLISM.** Care provided in a licensed hospital and is normally limited to detoxification where severe medical or psychiatric complications are present or may be anticipated.

(4) **SHORT TERM RESIDENTIAL ALCOHOLISM TREATMENT FACILITY.** A state certified facility which provides structured programs of intensive treatment services for people addicted to alcohol. Services may include supervised withdrawal from alcohol, backup emergency medical services for persons whose physical condition necessitates medical care, psychological and social evaluation, nutritional stabilization through proper dietary service, individual counseling, family counseling and referral to other providers who can provide additional services for continuity of care, aftercare and followup.

(5) **OUTPATIENT TREATMENT.** Treatment rendered in a nonresidential setting and using an intermittent, periodic schedule of visits.

§27-20A-2. Chapter applicable to group, etc., policies.

No group, blanket, franchise or association health insurance policy providing coverage on an expense incurred basis, nor group, blanket, franchise or association service or indemnity type contract issued by a nonprofit corporation, nor group-type self insurance plan providing protection, insurance or indemnity against hospital, medical or surgical expenses, nor health maintenance organization plan shall be issued, delivered, executed or renewed in this state, or approved for issuance or renewal in this state by the commissioner of insurance after 90 days beyond the effective date of this chapter, unless such policy, contract or plan, at the option of the policyholder or sponsor, provides benefits to any insured, subscriber or other person covered under the policy, contract or plan for expenses incurred in connection with the treatment of alcoholism when such treatment is prescribed by a duly licensed doctor of medicine.

§27-20A-3. Benefits required.

NOTE: The mental health board was abolished in section 22-50-10 and its powers were given to the department of mental health and mental retardation.

The benefits to be offered under this chapter shall include inpatient or residential treatment rendered to the insured, subscriber or other person covered, at a state licensed hospital or at a short term residential alcoholism treatment facility or detoxification facility duly licensed or certified as such by the Alabama board of health or the Alabama department of mental health and mental retardation. Benefits shall also include outpatient treatment rendered to the insured, subscriber or other person covered, by a duly licensed doctor of medicine or by an alcoholism treatment facility duly licensed or certified as such by the Alabama board of health or the Alabama department of mental health and mental retardation.

§27-20A-4. Extent of coverage.

When benefits are provided under this chapter, the benefits shall provide for a minimum of 30 days of inpatient treatment or its equivalent per calendar year with the equivalency to be computed based on a formula which equates two days of treatment in a short term residential alcoholism treatment facility to one day of inpatient treatment and which equates three sessions of outpatient treatment by a licensed doctor of medicine or an alcoholism treatment facility to one day of inpatient treatment.

§27-21-1. Purpose of chapter.

The legislature of Alabama takes cognizance of the existence of many Alabama citizens who are unable to obtain adequate health care protection by reason of economic, physical or other related causes. It is the purpose of the legislature to provide adequate health care protection through this plan to those persons not otherwise able to obtain such protection by insurance companies or voluntary association on a nonprofit basis.

§27-21-2. Offering of insurance.

Any insurer authorized and licensed to engage in the business of health insurance in this state may join with one or more other such insurers to offer to any resident of this state, who meets the qualifications established by the commissioner, insurance against major financial loss from accident or disease. Such insurance may be offered by such insurers in their own names or in the name of a voluntary unincorporated association or other organization formed by such insurers solely for the purpose of this plan. The forms of applications, certifications and policies of such insurance, the applicable premium rates, annual statement and all other information required by the department under Alabama law for organizations in the business of health insurance shall be filed with the commissioner for his approval. Any other information which the commissioner deems necessary for the efficient operation of the plan may also be required.

§27-21-3. Premium rates and administration expenses.

Each insurer or association electing to come under the provisions of this chapter shall charge the same premium for the same insurance coverage and be allowed the same percentage for expense of administration. Such premium rate and percentage for administration expense shall be determined and approved by the commissioner so as to maintain the nonprofit basis of the plan.

§27-21-4. Exemption from premium tax; deduction of losses therefrom.

The premiums collected under the provisions of the health care plan are hereby exempt from the payment of premium tax under chapter 4 of this title. Any losses suffered as a direct result of operation under the plan by those organizations electing to join and operate under the health care plan may be deducted from the premium tax submitted under the above-mentioned chapter 4 which would normally be paid on individual accident and health insurance premiums collected, but total loss deduction shall not exceed 50 percent of such premium tax normally payable on premiums from individual accident and health insurance.

§27-21-5. Qualifications for plan; examinations; public hearings; employment of consultants, etc.

(a) The commissioner shall set up standards and promulgate regulations concerning the qualifications of those Alabama citizens entitled to utilize this plan, and no insurer or association operating under the plan shall allow anyone to be insured under the plan unless that person meets these qualifications. Any willful material misrepresentation by a person attempting to qualify under the plan shall be a misdemeanor and, upon conviction thereof, shall be punishable as prescribed in section 13A-5-1.

(b) The commissioner may also make other necessary rules or regulations and may conduct any examination as to insurers at any reasonable time and may also, at his discretion, hold public hearings to determine qualifications of prospective insureds or rates and expenses of insurers in furtherance of this plan. The commissioner may also employ consultants, actuaries, attorneys or special investigators or examiners to assist him in the regulation of the plan and examination of the insurers, and the expense of these special assistants and consultants, along with any regular examination costs, will be borne by the concerned insurer.

§27-21-6. Short title.

This chapter shall be known as the Alabama health care plan and may be referred to by that designation.

§27-21A-1. Definitions.

As used in this chapter, the following terms shall have the following meanings, respectively:

(1) **AGENT.** A person who is appointed or employed by a health maintenance organization and who engages in solicitation of membership in such organization. This definition does not include a person enrolling members on behalf of an employer, union or other organization.

(2) **BASIC HEALTH CARE SERVICES.** Emergency care, inpatient hospital and physician care, and outpatient medical services.

(3) **COMMISSIONER.** The commissioner of insurance.

(4) **ENROLLEE.** An individual who is enrolled in a health maintenance organization.

(5) **EVIDENCE OF COVERAGE.** Any certificate, agreement, or contract issued to an enrollee setting out the coverage to which he is entitled.

(6) **HEALTH CARE SERVICES.** Any services included in the furnishing to any individual of medical or dental care, or hospitalization or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human illness, injury or physical disability.

(7) **HEALTH MAINTENANCE ORGANIZATION.** Any person that undertakes to provide or arrange for basic health care services through an organized system which combines the delivery and financing of health care to enrollees. The organization shall provide physician services directly through physician employees or under contractual arrangements with either individual physicians or a group or groups of physicians. The organization shall provide basic health care services directly or under contractual arrangements. When reasonable and appropriate, the organization may provide physician services and basic health care services through other arrangements. The organization may provide, or arrange for, health care services on a prepayment or other financial basis.

(8) **INSURER.** Every insurer authorized in this state to issue contracts of accident and sickness insurance. Hospital service nonprofit corporations, nonprofit medical service corporations, and nonprofit health care corporations are included within such term.

(9) **PERSON.** Any natural or artificial person including, but not limited to, individuals, partnerships, associations, trusts, or corporations.

(10) **PROVIDER.** Any physician, hospital, or other person which is licensed or otherwise authorized in this state to furnish health care services.

(11) **SCHEDULE OF CHARGES.** A statement of the method used by a health maintenance organization to establish rates.

(12) **STATE HEALTH OFFICER.** The executive officer of the state department of public health.

(13) **UNCOVERED EXPENDITURES.** The costs of health care services that are covered by a health maintenance organization, for which an enrollee would also be liable in the event of the organization's insolvency.

§27-21A-2. Establishment of health maintenance organizations.

(a) Notwithstanding any law of this state to the contrary, any person may apply to the commissioner for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this chapter. No person shall establish or operate a health maintenance organization in this state without obtaining a certificate of authority under this chapter. A foreign corporation may qualify under this chapter, subject to its registration to do business in this state as a foreign corporation under the provisions of sections 10-2A-220, et seq.

(b) Health maintenance organizations licensed as of May 29, 1986, shall be issued a certificate of authority in accordance with section 27-21A-29.

(c) Each application for a certificate of authority shall be verified by an officer or authorized representative of the applicant, shall be in a form prescribed by the commissioner, and shall set forth or be accompanied by the following:

(1) A certified copy of the organizational documents of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;

(2) A certified copy of the bylaws, rules and regulations, or similar document, if any, regulating the conduct of the internal affairs of the applicant;

(3) A list of the names, addresses, official positions, and such biographical information as may be required by the commissioner concerning the persons who are to be responsible for the conduct of the affairs of the applicant, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers in the case of a corporation, and the partners or members in the case of a partnership or association;

(4) A copy of any contract made or to be made between any persons listed in subdivision (3) and the applicant;

(5) A copy of the form of evidence of coverage to be issued to the enrollees;

(6) A copy of the form or group contract, if any, which is to be issued to employers, unions, trustees, or other organizations;

(7) Financial statements showing the applicant's assets, liabilities, and sources of financial support. If the applicant's financial affairs are audited by independent certified public accountants, a copy of the applicant's most recent certified financial statement shall be deemed to satisfy this requirement unless the commissioner directs that additional or more recent financial information is required for the proper administration of this chapter;

(8) A description of the proposed method of marketing, a financial plan which includes a projection of operating results anticipated until the organization has had net income for at least one year, and a statement as to the sources of working capital as well as any other sources of funding;

(9) A power of attorney duly executed by such applicant, if not domiciled in this state, appointing the commissioner and his successors in office, and duly authorized deputies, as the true and lawful attorney of such applicant in and for this state upon whom all lawful process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this state may be served;

(10) A statement reasonably describing the geographic area or areas to be served;

(11) A description of the complaint procedures to be utilized as required under section 27-21A-10;

(12) A description of the procedures and programs to be implemented to meet the health care requirements in subdivision (a)(2) of section 27-21A-3;

(13) The applicant's most recent report of examination and all annual reports and other periodic reports filed by the applicant within the past year in the applicant's state of domicile and state within which it maintains its principal place of business, if different from state of domicile; as well as any similar reports which the applicant may be required to file under federal law, if applicable;

(14) Such other information as the commissioner or state health officer may require to make the determinations required in section 27-21A-3.

(d)(1) An applicant or a health maintenance organization holding a certificate of authority granted hereunder shall, unless otherwise provided for in this act, file a notice describing any material modification of the operation set out in the information required by subsection (c). Such notice shall be filed with the commissioner and the state health officer prior to modification. If the commissioner does not disapprove within 30 days of filing, such modification shall be deemed approved;

(2) The commissioner or state health officer may promulgate rules and regulations exempting from the filing requirements of subdivision (d)(1) those items he deems unnecessary.

(e) An applicant, or a health maintenance organization holding a certificate of authority granted hereunder shall file with the commissioner all contracts of reinsurance. Any agreement between the organization and an insurer shall be subject to the laws of this state regarding reinsurance. All reinsurance agreements and any modifications thereto must be approved by the commissioner. If the commissioner does not disapprove such agreements or modifications within 30 days of filing, such agreements or modifications shall be deemed approved. Reinsurance agreements shall remain in full force and effect for at least 90 days following written notice by registered mail or cancellation by either party to the commissioner.

§27-21A-3. Issuance of certificate of authority.

(a)(1) Upon receipt of an application for issuance of a certificate of authority, the commissioner shall forthwith transmit copies of such application and accompanying documents to the state health officer.

(2) The state health officer shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

a. Has demonstrated the willingness and potential ability to assure that such health care services will be provided in a manner to assure both availability and accessibility of adequate personnel and facilities and in a manner enhancing availability, accessibility and continuity of service;

b. Has arrangements, established in accordance with the regulations promulgated by the state health officer for an on-going quality assurance program concerning health care processes and outcomes; and

c. Has a procedure, established in accordance with regulations of the state health officer, to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services, and such other matters as may be reasonably required by the state health officer.

d. Has demonstrated that the health maintenance organization will effectively provide, or arrange for, the provision of health care services. Such arrangements shall be established in accordance with rules promulgated by the state health officer for an on-going quality assurance/utilization review program concerning health care processes and outcomes.

e. Has demonstrated that a copy of the form or group contract which is to be issued to employers, unions, trustees, or other organizations or individuals is in compliance with rules promulgated by the state health officer; and

f. Has demonstrated that nothing in the proposed method of operation, as shown by the information submitted pursuant to section 27-21A-2, or by independent investigation is contrary to the public interest.

(3) Within 90 days of receipt of the application for issuance of a certificate of authority, the state health officer shall certify to the commissioner that the proposed health maintenance organization meets the requirements of subdivision (a)(2) or notify the commissioner that the health maintenance organization does not meet such requirements and specify in what respects it is deficient.

(b) After receipt of the certification from the state health officer, the commissioner shall issue or deny a certificate of authority to any person filing an application pursuant to section 27-21A-2. Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in section 27-21A-21 if the commissioner is satisfied that the following conditions are met:

(1) The ownership, control or management of the entity is competent and trustworthy and possesses managerial experience that would make the proposed health maintenance organization beneficial to the subscribers. The commissioner shall not grant or continue to license the business of a health maintenance organization in this state at any time the commissioner has good reason to believe that the ownership, control, or management of the organization is under the control of any person whose business operations are, or have been marked by business practices or conduct that is to the detriment of the public, stockholders,

investors, or creditors; by the improper manipulation of assets or of accounts; or by bad faith;

(2) The state health officer certifies, in accordance with subdivision (a)(3), that the health maintenance organization's proposed plan of operation meets the requirements of subdivision (a)(2);

(3) Except to the extent of contractually required provisions for copayments, the health maintenance organization will effectively provide or arrange for the provision of basic health care services through insurance, written contractual agreements, or other existing arrangements; and

(4) The contracts for basic health care services contain a provision that providers shall hold the enrollee harmless for the payment of the cost of health care services in any event including, but not limited to, nonpayment of the health maintenance organization, or the health maintenance organization's insolvency. This provision shall not prohibit collection of supplemental charges or copayments on the health maintenance organization's behalf made in accordance with terms of any applicable agreement between the health maintenance organization and the enrollee.

(5) The health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the commissioner shall consider:

a. The financial soundness of the applicant and its arrangements for health care services and the schedule of charges used in connection therewith;

b. The adequacy of working capital;

c. Any agreement with an insurer or other organization for insuring the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the health maintenance organization;

d. Any agreement form or contract form with providers for the provision of health care services; and

e. Any deposit of cash or securities submitted in accordance with section 27-21A-12.

(6) Nothing in the proposed method of operation, as shown by the information submitted pursuant to section 27-21A-2 or by independent investigation, is contrary to the public interest;

(7) Any deficiencies identified by the state health officer have been corrected; and

(8) The form or group contract, if any, which is to be issued to employers, unions, trustees, or other organizations is in compliance with the rules and regulations of the state insurance department as such rules and regulations specifically apply to health maintenance organizations. Any provisions of this

chapter to the contrary notwithstanding, no provision of this chapter shall exempt any HMO from compliance with the rules and regulations required for licensing or in any way exempt any HMO participant or enrollee from quality care standards and regulations as a condition for licensure. Any HMO under contract as of April 1, 1986, with the Alabama medicaid agency that has a grant with a national foundation and is licensed by the Alabama department of public health shall not be responsible for any of the fees, taxes, and other financial regulations so long as the grant is in existence. Any HMO which contracts with the medicaid agency shall be exempt from the financial responsibilities and taxes listed in this chapter for that percentage of enrollees that are medicaid recipients. These HMOs shall also be exempt from any provision necessary for the medicaid agency to comply with federal regulations.

§27-21A-4. Powers of health maintenance organizations.

(a) The powers of a health maintenance organization include, but are not limited to the following:

(1) The purchase, lease, construction, renovation, operation, or maintenance of hospitals, medical facilities, or both, and their ancillary equipment;

(2) The making of loans other than in the ordinary course of business, to providers under contract with it in furtherance of its program or the making of loans to a corporation or corporations in which it owns a majority interest for the purpose of acquiring or constructing medical facilities and hospitals or in furtherance of a program providing health care services to enrollees.

(3) The furnishing of health care services through providers which are under contract with or employed by the health maintenance organization.

(4) The contracting with any person for the performance on its behalf of certain functions such as marketing, enrollment and administration.

(5) The purchase, lease, construction, or renovation of property as may reasonably be required for its principal office or for such purposes as may be necessary in the transaction of the business of the organization;

(6) The contracting with an insurance company licensed in this state to do business in this state, or a health care service plan authorized to transact business in this state, for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization.

(7) The offering of other health care services, in addition to basic health care services or other required health care services.

(b)(1) A health maintenance organization shall file notice, assuring compliance with any applicable state or federal laws, with adequate supporting information, with the commissioner prior to the exercise of any power granted in subsections (a)(1), (a)(2) or (a)(4). The commissioner shall disapprove such exercise of power only if in his opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. If the commissioner does not disapprove within 30

days of the filing, it shall be deemed approved.

(2) The commissioner may promulgate rules and regulations exempting from the filing requirement of subsection (b)(1) those activities having a de minimis effect.

§27-21A-5. Governing body.

The governing body of any health maintenance organization may include providers, or other individuals, or both.

§27-21A-6. Fiduciary responsibilities of directors, officers, employees and partners.

(a) Any director, officer, employee or partner of a health maintenance organization who receives, collects, disburses, or invests funds in connection with the activities of such organization shall be responsible for such funds in a fiduciary relationship to the organization.

(b) A health maintenance organization shall maintain in force a fidelity bond on employees and officers in an amount not less than \$25,000 or such other sum as may be prescribed by the commissioner. All such bonds shall be written with at least a one-year discovery period and if written with less than a three-year discovery period shall contain a provision that no cancellation or termination of the bond, whether by or at the request of the insured or by the underwriter, shall take effect prior to the expiration of 90 days after written notice of such cancellation or termination has been filed with the commissioner unless an earlier date of such cancellation or termination is approved by the commissioner.

(c) Any officer, or director, or any member of any committee or any employee of a health maintenance organization who is charged with the duty of investing or handling the organization's funds shall not deposit or invest such funds except in the organization's corporate name; except, that such health maintenance organization may for its convenience hold any equity investment in a street name or in the name of a nominee; shall not borrow the funds of such organization; shall not be pecuniarily interested in any loan, pledge or deposit, security, investment, sale, purchase, exchange, reinsurance or other similar transaction or property of such insurer except as a stockholder or member and shall not take or receive to his own use any fee, brokerage, commission, gift or other consideration for, or on account of, any such transaction made by, or on behalf of, such insurer.

(d) No health maintenance organization shall guarantee any financial obligation of any of its officers or directors.

(e) This section shall not prohibit such a director, or officer, or member of a committee or employee from becoming a member of the health maintenance organization and enjoying the usual rights so provided for its members, nor shall it prohibit any such officer, director, or member of a committee or employee from participating as a beneficiary in any pension trust, deferred compensation plan, profit-sharing plan or stock option plan authorized by the health maintenance organization and to which he may be eligible, nor shall it prohibit any director or member of a committee from receiving a reasonable fee for legal services actually rendered to such health maintenance organization.

(f) The commissioner may, by regulations from time to time, define and permit additional exceptions to the prohibition contained in subsection (c) of this section solely to enable payment of reasonable compensation to the director who is not otherwise an officer or employee of the health maintenance organization, or to a corporation or firm in which a director is interested, for necessary services performed or sales or purchases made to, or for, the health maintenance organization's business and in the usual private, professional or business capacity of such director or such corporation or firm.

§27-21A-7. Evidence of coverage and charges for health care services.

(a)(1) Every enrollee residing in this state is entitled to an evidence of coverage. If the enrollee obtains such coverage through an insurance policy or a contract issued by a health care service plan, the insurer or the health care service plan shall issue the evidence of coverage. Otherwise, the health maintenance organization shall issue the evidence of coverage.

(2) No evidence of coverage, or amendment thereto, shall be issued or delivered to any person in this state until a copy of the basic form of the evidence of coverage, or amendment thereto, has been filed with the commissioner and the state health officer, and approved by the commissioner.

(3) An evidence of coverage shall contain:

a. No provisions or statements which encourage misrepresentation, or which are untrue, misleading or deceptive as defined in subsection (a) of section 27-21A-13; and

b. A clear and concise statement, if a contract, or a reasonably complete summary, if a certificate, of:

1. The health care service and the insurance or other benefits, if any, to which the enrollee is entitled;

2. Any limitations on the services, kinds of services, benefits, or kinds of benefits, to be provided, including any deductible or copayment feature;

3. Where and in what manner information is available as to how services may be obtained;

4. The total amount of payments for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay with respect to individual contracts; and

5. A clear and understandable description of the health maintenance organization's method for resolving enrollee complaints.

Any subsequent change may be evidenced in a separate document issued to the enrollee.

(b)(1) No schedule of charges for enrollee coverage for health care services, or amendment thereto, may be used until a copy of such schedule, or amendment thereto, has been filed with and approved by the commissioner.

(2) Such schedule of charges shall be established in accordance with actuarial principles for various categories of enrollees, provided that the charges applicable to any enrollee shall not be individually determined based on his health status. Charges shall not be excessive, inadequate, or unfairly discriminatory. A certification, by a qualified actuary or other qualified person acceptable to the commissioner as to the appropriateness of the use of the charges, based on reasonable assumptions, shall accompany the filing along with adequate supporting information.

(c) The commissioner shall within 30 days approve any form if the requirements of subsection (a) are met and the commissioner shall within 30 days approve any schedule of charges if the requirements of subsection (b) are met. It shall be unlawful to issue such form or to use such schedule of charges until approved. If the commissioner disapproves such filing, he shall notify the filer. In the notice, the commissioner shall specify the reasons for his disapproval. A hearing will be granted within 30 days after a request in writing by the person filing. If the commissioner does not approve any form or if the commissioner does not approve any schedule of charges within 30 days of the filing of such forms or schedule of charges, they shall be deemed approved.

(d) The commissioner may require the submission of whatever relevant information he deems necessary in determining whether to approve or disapprove a filing made pursuant to this section.

§27-21A-8. Reporting requirements.

Every health maintenance organization shall annually, on or before the first day of March, file a report verified by at least two principal officers with the commissioner, with a copy to the state health officer, covering the preceding calendar year. Such report shall be on forms prescribed by the commissioner, and shall include:

- (1) A financial statement of the organization;
- (2) Any material changes in the information submitted pursuant to subsection (c) of section 27-21A-2;
- (3) The number of persons enrolled at the beginning and end of the year;
- (4) A summary of information compiled pursuant to paragraph (a)(2)c of section 27-21A-3;
- (5) The amount of uncovered and covered expenditures that are payable and more than 90 days past due; and
- (6) Such additional information or reports as are deemed reasonably necessary and appropriate by the commissioner to enable him to carry out his duties under this chapter.

§27-21A-9. Information to enrollees.

Every health maintenance organization shall provide promptly to its

enrollees notice of any material change in the operation of the organization that will affect them directly.

§27-21A-10. Complaint system.

(a)(1) Every health maintenance organization shall establish and maintain a complaint system which has been approved by the commissioner, after consultation with the state health officer, to provide reasonable procedures for the resolution of written complaints initiated by enrollees.

(2) Each health maintenance organization shall submit to the commissioner and the state health officer an annual report in a form prescribed by the commissioner, after consultation with the state health officer, which shall include:

- a. A description of the procedures of such complaint system;
- b. The total number of complaints handled through such complaint system and a compilation of causes underlying the complaints filed; and
- c. The number, amount, and disposition of malpractice claims and other claims relating to the service or care rendered by the health maintenance organization made by enrollees of the organization that were settled during the year by the health maintenance organization. All such information shall be held in confidence by the commissioner.

(b) The commissioner or the state health officer may examine such complaint system.

§27-21A-11. Investments.

With the exception of investments made in accordance with subdivisions (a)(1), (a)(2), (a)(5) and subsection (b) of section 27-21A-4, the funds of a health maintenance organization shall be invested only in securities or other investments permitted by the laws of this state for the investment of assets constituting the legal reserves of life insurance companies or such other securities or investments as the commissioner may permit.

§27-21A-12. Protection against insolvency.

(a) Unless otherwise provided below, each health maintenance organization shall deposit with the commissioner, or with any organization or trustee acceptable to him through which a custodial or controlled account is utilized, cash, securities, or any combination of these or other measures acceptable to him in the amount set forth in this section.

(b) The amount for an organization that is beginning operation shall be the greater of: (1) five percent of its estimated expenditures for health care services for its first year of operation, (2) twice its estimated average monthly uncovered expenditures for its first year of operation, or (3) \$100,000. At the beginning of each succeeding year, unless not applicable, the organization shall deposit with the commissioner, or organization, or trustee, cash, securities, or any combination of these or other measures acceptable to the commissioner, in an amount equal to four percent of its estimated annual uncovered expenditures for that year.

(c) Unless not applicable, an organization that is in operation on May 29, 1986, shall make a deposit equal to the larger of: (1) one percent of the preceding 12 months uncovered expenditures, or (2) \$100,000 on the first day of the fiscal year beginning six months or more after May 29, 1986.

In the second fiscal year, if applicable, the amount of the additional deposit shall be equal to two percent of its estimated annual uncovered expenditures. In the third fiscal year, if applicable, the additional deposit shall be equal to three percent of its estimated annual uncovered expenditures for that year, and in the fourth fiscal year and subsequent years, if applicable, the additional deposit shall be equal to four percent of its estimated annual uncovered expenditures for each year. Each year's estimate, after the first year of operation shall reasonably reflect the prior year's operating experience and delivery arrangements.

(d) The commissioner may waive any of the deposit requirements set forth in subsections (a) and (b) above whenever satisfied that the organization has sufficient net worth and an adequate history of generating net income to assure its financial viability for the next year, or its performance and obligations are guaranteed by an organization with sufficient net worth and an adequate history of generating net income, or the assets of the organization or its contracts with insurers, health care service plans, governments, or other organizations are reasonably sufficient to assure the performance of its obligations; provided, however, that a minimum deposit of \$100,000 shall be required in all cases.

(e) When an organization has achieved a net worth composed of investments authorized under section 27-21A-11, but not including land, buildings, and equipment, of at least \$1 million or has achieved a net worth including direct investments in organization-related land, buildings, and equipment of at least \$5 million, the annual deposit requirement shall not apply.

The annual deposit requirement shall not apply to an organization if the total amount of the accumulated deposit is equal to 25 percent of its estimated annual uncovered expenditures for the next calendar year, or the capital and surplus requirements for the formation for admittance of an accident and health insurer in this state, whichever is less.

If the organization has a guaranteeing organization which has been in operation for at least five years and has a net worth not including land, buildings and equipment of at least \$1 million or which has been in operation for at least 10 years and has a net worth including direct investments in organization-related land, buildings, and equipment of at least \$5 million, the annual deposit requirement shall not apply; provided, however, that if the guaranteeing organization is sponsoring more than one organization, the net worth requirement shall be increased by a multiple equal to the number of such organizations. This requirement to maintain a deposit in excess of the deposit required of an accident and health insurer shall not apply during any time that the guaranteeing organization maintains for each organization it sponsors a net worth of at least equal to the capital and surplus requirements for an accident and health insurer.

(f) All income from deposits shall belong to the depositing organization and shall be paid to it as it becomes available. A health maintenance organization that has made a securities deposit may withdraw that deposit or any part thereof after

making a substitute deposit of cash, securities, or any combination of these or other measures of equal amount and value. Any securities shall be approved by the commissioner before being substituted.

(g) In any year in which an annual deposit is not required of an organization, at the organization's request the commissioner shall reduce the required, previously accumulated deposit by \$100,000 for each \$250,000 of net worth in excess of the amount that allows the organization not to make the annual deposit. If the amount of net worth no longer supports a reduction of its required deposit, the organization shall immediately redeposit \$100,000 for each \$250,000 of reduction in net worth, provided that its total deposit shall not exceed the maximum required under this section.

(h) Each health maintenance organization shall have and maintain a capital account of at least \$100,000 in addition to any deposit requirements under this section. The capital account shall be net of any accrued liabilities and be in the form of cash, securities or any combination of these or other measures acceptable to the commissioner.

(i) There is created a nonprofit unincorporated legal entity to be known as the Alabama health maintenance organization guaranty association. All health maintenance organizations authorized to transact business in this state shall participate in this guaranty association which shall protect all enrollees of such organizations in this state against failure in the performance of obligations due to the impairment or insolvency of a health maintenance organization. The association shall be separate from, but shall be modeled on the Alabama life and disability guaranty association, sections 27-44-1, et seq. and the commissioner shall take such actions and promulgate, in accordance with the provisions of section 27-2-17, such regulations as he may deem necessary to effectuate the provisions of this subsection.

§27-21A-13. Prohibited practices.

(a) No health maintenance organization, or representative thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form or evidence of coverage which is deceptive. For purposes of this chapter:

(1) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment with a health maintenance organization;

(2) A statement or item of information shall be deemed to be misleading, whether or not it may be literally untrue, if, in the total context in which such statement is made or such item of information is communicated, such statement or item of information may be reasonably understood by a reasonable person, not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or disadvantage or possible significance to an enrollee of, or person considering enrollment in a health maintenance organization, if such benefit or advantage or absence of limitation, exclusion or disadvantage does not in fact exist;

(3) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage taken as a whole, and with consideration given to typography and format, as well as language, shall be such as to cause a reasonable person, not possessing special knowledge regarding health maintenance organizations and evidences of coverage therefor, to expect benefits, services, charges, or other advantages which the evidence of coverage does not provide or which the health maintenance organization issuing such evidence of coverage does not regularly make available for enrollees covered under such evidence of coverage.

(b) Sections 8-19-1, et seq. and 27-12-1, et seq. shall be construed to apply to health maintenance organizations and evidences of coverage except to the extent that such sections are clearly inappropriate in light of the nature of health maintenance organizations as set forth in this chapter.

(c) A health maintenance organization may not cancel or refuse to renew an individual enrollee, except for reasons stated in the organization's rules applicable to all enrollees, or for the failure to pay the charge for such coverage, or for such other reasons as may be promulgated by the commissioner; provided, however, that a health maintenance organization may not in any event cancel or refuse to renew an enrollee solely on the basis of the health of the enrollee.

(d) No health maintenance organization unless licensed as an insurer may refer to itself as a licensed insurer or use a name deceptively similar to the name or description of any insurance or surety corporation doing business in this state.

(e) Any person not in possession of a valid certificate of authority issued pursuant to this chapter may not use the phrase "health maintenance organization" or "HMO" in the course of operation.

§27-21A-14. Regulation of agents.

(a) Unless exempted pursuant to subsection (c) of this section, health maintenance organizations in this state shall only solicit enrollees or otherwise market their services through duly licensed agents. This requirement shall not apply to health maintenance organizations existing as of May 29, 1986, until six months after the promulgation of rules or regulations as provided in subsection (b) of this section.

(b) The commissioner shall, after notice and hearing, promulgate such reasonable rules and regulations as are necessary to provide for the licensing of agents.

(c) The commissioner may, by rule, exempt certain classes of persons from the requirement of obtaining a license:

(1) If the functions they perform do not require special competence, trustworthiness or the regulatory surveillance made possible by licensing; or

(2) If other existing safeguards make regulation unnecessary.

(d) Nothing in this section shall be deemed to prohibit a health maintenance organization from advertising.

§27-21A-15. Powers of insurers and health care service plans.

(a) An insurance company licensed in this state, or a health care service plan authorized to do business in this state, may either directly or through a subsidiary or affiliate organize and operate a health maintenance organization under the provisions of this chapter. Notwithstanding any other law which may be inconsistent herewith, any two or more such insurance companies, health care service plans, or subsidiaries or affiliates thereof, may jointly organize and operate a health maintenance organization. The business of insurance is deemed to include the providing of health care by a health maintenance organization owned or operated by an insurer or a subsidiary thereof.

(b) Notwithstanding any provision of insurance and health care service plan laws, Title 10, chapter 4, article 6 and Title 27, an insurer or a health care service plan may contract with a health maintenance organization to provide insurance or similar protection against the cost of care provided through health maintenance organizations and to provide coverage in the event of the failure of the health maintenance organization to meet its obligations. For such purposes, the enrollees of a health maintenance organization constitute a permissible group under such laws. Among other things, under such contracts, the insurer or health care service plan may make benefit payments to health maintenance organizations for health care services rendered by providers.

§27-21A-16. Examination.

(a) The commissioner may make an examination of the affairs of any health maintenance organization and providers with whom such organization has contracts or agreements as often as is reasonably necessary for the protection of the interests of the people of this state, but not less frequently than once every three years.

(b) The state health officer may make an examination concerning health care service of any health maintenance organization and providers with whom such organization has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this state, but not less frequently than once every three years.

(c) Every health maintenance organization shall submit its relevant books and records for such examinations and in every way facilitate these examinations. For the purpose of examinations, the commissioner and the state health officer may administer oaths to, and examine the officers and agents of the health maintenance organization and the principals of such providers concerning their business.

(d) The expenses of examinations under this section shall be assessed against the organization being examined and such assessment shall be remitted to the commissioner to be deposited to the credit of the special examination revolving fund in section 27-2-25, or the state health officer to be deposited to the credit of a fund to be known as the health maintenance organization revolving

fund. The expenses incurred by the commissioner and his examiners in the making of examinations pursuant to the provisions of this chapter, together with the compensation of such examiners, shall be paid from the special examination revolving fund. The expenses incurred by the state health officer and his examiners in the making of examinations pursuant to the provisions of this chapter, together with the compensation of such examiners, shall be paid from the health maintenance organization revolving fund.

(e) In lieu of such examination, the commissioner or state health officer may accept the report of an examination made by the commissioner, state health officer or other appropriate agency of the state of domicile of the health maintenance organization. The health maintenance organization shall file a copy of any such report with the commissioner and the state health officer.

(f) All records necessary for the complete examination of a health maintenance organization domiciled in this state shall be maintained in a location approved by the commissioner.

§27-21A-17. Suspension or revocation of certificate of authority.

(a) The commissioner in consultation with and with the approval of the state health officer, where necessary, may suspend or revoke any certificate of authority issued to a health maintenance organization under this chapter if he finds that any of the following conditions exist:

(1) The health maintenance organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in any other information submitted under section 27-21A-2, unless amendments to such submissions have been filed with the commissioner and the state health officer and approved by the commissioner;

(2) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with requirements of section 27-21A-7;

(3) The health maintenance organization does not provide or arrange for basic health care services;

(4) The state health officer certifies to the commissioner that:

a. The health maintenance organization does not meet the requirements of subdivision (a)(2) of section 27-21A-3; or

b. The health maintenance organization is unable to fulfill its obligations to furnish health care services;

(5) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(6) The health maintenance organization has failed to implement the complaint system required by section 27-21A-10 in a reasonable manner to facilitate the resolution of valid complaints;

(7) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;

(8) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(9) The health maintenance organization has otherwise failed substantially to comply with this chapter.

(b) A certificate of authority shall be suspended or revoked only after compliance with the requirements of section 27- 21A-20.

(c) When the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of such suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.

(d) When the certificate of authority of a health maintenance organization is revoked, such organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of such organization. It shall engage in no further advertising, solicitation or enrollment whatsoever. The commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage.

§27-21A-18. Rehabilitation, liquidation, or conservation of a health maintenance organization.

(a) Any rehabilitation, liquidation or conservation of a health maintenance organization shall be deemed to be the rehabilitation, liquidation, or conservation of an insurance company and shall be conducted under the supervision of the commissioner pursuant to the law governing the rehabilitation, liquidation, or conservation of insurance companies. The commissioner may apply for an order directing him to rehabilitate, liquidate, or conserve a health maintenance organization upon any one or more grounds set out in section 27-32-6, or when in his opinion the continued operation of the health maintenance organization would be hazardous either to the enrollees or to the people of this state. Enrollees shall have the same priority in the event of liquidation or rehabilitation as the law provides to policyholders of an insurer.

(b) A claim by a health care provider for an uncovered expenditure has the same priority as a claim of an enrollee, provided such provider of services agrees not to assert such claim against any enrollee of the health maintenance organization.

(c) The state health officer shall provide to the commissioner or receiver of any financially troubled health maintenance organization advice and support to facilitate the expeditious rehabilitation, liquidation, conservation or dissolution of the health maintenance organization.

§27-21A-19. Regulations.

The commissioner may, after notice and hearing, promulgate reasonable rules and regulations, in accordance with section 27-2-17, as are necessary or proper to carry out the provisions of this chapter. The state health officer may promulgate such rules and regulations in accordance with the provisions of sections 41-22-1, et seq.

§27-21A-20. Administrative procedures.

(a) When the commissioner has cause to believe that grounds for the denial of an application for a certificate of authority exist, or that grounds for the suspension or revocation of a certificate of authority exist, he shall notify the health maintenance organization and the state health officer in writing specifically stating the grounds for denial, suspension, or revocation. If so requested in writing by the health maintenance organization, the commissioner shall set a hearing on the matter within 30 days of the receipt of such request.

(b) The state health officer or his designated representative, shall be in attendance at the hearing and shall participate in the proceedings. The recommendation and findings of the state health officer with respect to matters relating to the quality of health care services provided in connection with any decision regarding denial, suspension, or revocation of a certificate of authority, shall be conclusive and binding upon the commissioner. Within 30 days after such hearing, or upon the failure of the health maintenance organization to appear at such hearing, the commissioner shall take action as is deemed advisable on written findings which shall be mailed to the health maintenance organization with a copy thereof to the state health officer. The health maintenance organization can appeal the action of the commissioner and the recommendation and findings of the state health officer to the circuit court of Montgomery county by filing an appeal to such court within 30 days of the receipt of such findings. The court may, in disposing of the issue before it, modify, affirm or reverse the order of the commissioner in whole or in part.

(c) Those provisions of this title, relating to the suspension, denial or revocation of a certificate of authority, shall apply to proceedings under this section.

§27-21A-21. Fees.

(a) Every health maintenance organization subject to this chapter shall pay to the commissioner the following fees:

(1) For filing an application for certificate of authority or amendment thereto, \$50.00;

(2) For filing an amendment to the organization documents that requires approval, \$10.00;

(3) For filing each annual report, \$20.00.

(4) For renewal of annual certificates of authority, \$200.00.

(b) Fees charged under this section shall be deposited to the credit of the general fund.

§27-21A-22. Penalties and enforcement.

(a) The commissioner may, in lieu of suspension or revocation of a certificate of authority under section 27-21A-17, levy an administrative penalty in an amount not less than \$500.00 nor more than \$5,000.00, if reasonable notice in writing is given of the intent to levy the penalty and the health maintenance organization has a reasonable time within which to remedy the defect in its operations which gave rise to the penalty citation. The commissioner may augment this penalty by an amount equal to the sum that he calculates to be the damages suffered by enrollees or other members of the public. All moneys collected under this section shall be deposited to the credit of the general fund.

(b)(1) If the commissioner or the state health officer shall for any reason have cause to believe that any violation of this chapter has occurred or is threatened, the commissioner or state health officer may give notice to the health maintenance organization and to the representatives, or other persons who appear to be involved in such suspected violation, to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation, and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation.

(2) Proceedings under this subsection shall not be governed by any formal procedural requirements, and may be conducted in such manner as the commissioner or the state health officer may deem appropriate under the circumstances. However, unless consented to by the health maintenance organization, no rule or order may result from a conference until the requirements of this section or section 27-21A-20 of this chapter are satisfied.

(c)(1) The commissioner, after notice to the state health officer, may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the provisions of this chapter.

(2) Within 30 days after service of the cease and desist order, the respondent may request a hearing on the question of whether acts or practices in violation of this chapter have occurred. Such hearings shall be conducted and judicial review had in accord with the provisions of this title.

(d) In the case of any violation of the provisions of this chapter, if the commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to subsection (c), the commissioner may institute a proceeding to obtain injunctive or other appropriate relief in the circuit court of Montgomery county.

§27-21A-23. Statutory construction and relationship to other laws.

(a) Except as otherwise provided in this chapter, provisions of the insurance law and provisions of health care service plan laws shall not be applicable to any health maintenance organization granted a certificate of authority under this

chapter. This provision shall not apply to an insurer or health care service plan licensed and regulated pursuant to the insurance law or the health care service plan laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

(b) Solicitation of enrollees by a health maintenance organization granted a certificate of authority shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

(c) Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and shall be exempt from the provisions of section 34-24-310, et seq., relating to the practice of medicine.

(d) No person participating in the arrangements of a health maintenance organization other than the actual provider of health care services or supplies directly to enrollees and their families shall be liable for negligence, misfeasance, nonfeasance or malpractice in connection with the furnishing of such services and supplies.

(e) Nothing in this chapter shall be construed in any way to repeal or conflict with any provision of the certificate of need law.

§27-21A-24. Filings and reports as public documents.

All applications, filings and reports required under this chapter, except those which are trade secrets or privileged or confidential commercial or financial information, other than any annual financial statement that may be required under section 27-21A-8, shall be treated as public documents. All testimony, documents and other evidence required to be submitted to the commissioner or state health officer in connection with enforcement of this chapter shall be absolutely confidential and shall not be admissible in evidence in any other proceeding. The commissioner or the state health officer may withhold from public inspection any examination or investigation report for so long as they deem necessary to protect the person examined from unwarranted injury or to be in the public interest.

§27-21A-25. Confidentiality of medical information.

Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of this chapter; or upon the express consent of the enrollee or applicant; or pursuant to statute or court order for the production of evidence or the discovery thereof; or in the event of claim or litigation between such person and the health maintenance organization wherein such data or information is pertinent. A health maintenance organization shall be entitled to claim any statutory privileges against such disclosure which the provider who furnished such information to the health maintenance organization is entitled to claim.

§27-21A-26. State health officer's and commissioner's authority to contract.

The state health officer and the commissioner, in carrying out their obligations under this chapter, may contract with qualified persons to make

recommendations concerning the determinations required to be made by them. Such recommendations may be accepted in full or in part by the state health officer or commissioner.

§27-21A-27. Acquisition of control of or merger of a health maintenance organization.

No person may make a tender for or a request or invitation for tenders of, or enter into an agreement to exchange securities for or acquire in the open market or otherwise, any voting security of a health maintenance organization or enter into any other agreement if, after the consummation thereof, that person would, directly or indirectly, (or by conversion or by exercise of any right to acquire) be in control of the health maintenance organization, and no person may enter into an agreement to merge or consolidate with or otherwise to acquire control of a health maintenance organization, unless at the time any offer, request, or invitation is made or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the health maintenance organization, information required by section 27-29-3, and the offer, request, invitation, agreement or acquisition has been approved by the commissioner. Approval by the commissioner shall be governed by the provisions of said section 27-29-3. Control under this section shall be defined in the same manner as it is defined for the purposes of section 27-29-3, as amended from time to time.

§27-21A-28. Taxes.

THIS SECTION WAS AMENDED IN THE 1993 REGULAR SESSION. THE TEXT OF THE SECTION AS IT WAS AMENDED IN THE 1993 REGULAR SESSION IS INCLUDED. IT WILL BECOME EFFECTIVE JANUARY 1, 1995.

(a) The same taxes and filing requirements applicable to life insurers under this title, shall apply to and shall be imposed upon each health maintenance organization licensed under the provisions of this chapter; and the organization shall also be entitled to the same tax deductions, reductions, abatements, and credits that life insurers are entitled to receive. All taxes collected hereunder shall be deposited to the credit of the general fund.

(b) As to health maintenance organizations doing business in this state as of May 29, 1986, the taxes imposed by this section shall not take effect until January 1, 1989, but on and after such date shall be payable in accordance with the provisions of sections 27-4-4 and 27-4-5.

27-21A-28. Taxes.

Health maintenance organizations doing business in this state shall be subject to and pay the annual premium tax to be paid by insurers on insurance premiums. The same taxes and filing requirements applicable to life insurers under this title, shall apply to and shall be imposed upon each health maintenance organization licensed under the provisions of this chapter; and the organization shall also be entitled to the same tax deductions, reductions, abatements, and credits that life insurers are entitled to receive.

§27-21A-29. Existing health maintenance organizations.

(a) Notwithstanding any other provision of this chapter, any health maintenance organization licensed by the state board of health and in operation on May 29, 1986, shall be granted a certificate of authority upon payment of the application fee prescribed in section 27-21A-21 and compliance with section 27-21A-12. Nothing in this section shall prohibit any such health maintenance organization from continuing to conduct business in this state until such certificate of authority is issued.

(b) Any health maintenance organization which was licensed in this state prior to January 1, 1986, may continue to operate under existing noncontractual provider arrangements (which have been approved by the state health officer) for three years.

(c) After issuance of a certificate of authority in accordance with subsection (a) of this section, the commissioner may require submission by the health maintenance organization of any additional information required in section 27-21A-2 which has not previously been submitted to the state health officer.

§27-21A-30. Coordination of benefits.

(a) A health maintenance organization is entitled to coordinate benefits on the same basis as an insurer. No such coordination shall be allowed against policies covering individuals on other than a group basis.

(b) A health maintenance organization providing medical benefits or payments to an enrollee who suffers injury, disease, or illness by virtue of the negligent act or omission of a third party is entitled to reimbursement from such third party for the reasonable value of the benefits or payments provided.

§27-21A-31. Health maintenance organization advisory council.

There shall be established a three member HMO advisory council to advise and consult with the commissioner and the state health officer in carrying out their duties under this chapter. The members of such advisory body shall be appointed annually by the Alabama association of health maintenance organizations.

§27-21A-32. HMO enrollment requirements.

(a) The state government, or any agency, board, commission, institution, or political subdivision thereof, and any city or county, or board of education, which offers its employees a health benefits plan may make available to and inform its employees or members of the option to enroll in at least one health maintenance organization holding a valid certificate of authority which provides health care services in the geographic areas in which such employees or members reside.

(b) The first time a health maintenance organization is offered by an employer, either public or private, each covered employee must make an affirmative written selection among the different alternatives included in the health benefits plan. Thereafter, those who wish to change from one plan to another will be allowed to do so annually, provided, that nothing in this section shall prevent

any health maintenance organization or insurer from requiring evidence of insurability or imposing underwriting restrictions on the acceptance of any such employee. In addition to the annual group enrollment period, the employer shall make available the opportunity to select among different existing alternatives within a health benefits plan to eligible employees, who are new employees or have changed their place of residence resulting in eligibility for the plan.

(c) This section shall impose no responsibilities or duties upon any employer, either public or private, to offer health maintenance organization coverage as part of its health benefits plan.

(d) No employer shall in any way be required to pay more for health benefits as a result of the application of this section than would otherwise be required by a prevailing collective bargaining agreement or other legally enforceable contract or obligation for the provision of health benefits to its employees, or in any plan provided voluntarily by an employer.

§27-22-1. Insurance of building in name of less than all owners.

As to every insurance contract insuring any dwelling or other building and written in the name of less than all of the joint owners or tenants in common, with or without survivorship, if such joint tenants or tenants in common are husband and wife, it shall not be a defense against liability under the policy that all the joint owners or tenants in common were not named as the insured therein, nor will the amount due in event of loss be diminished on such account unless, by special endorsement of the policy, the insurer's liability is limited to the interest of the named insured.

§27-22-2. Industrial fire insurance policies.

(a) Industrial fire insurance policies are policies issued by insurers writing fire and allied lines of insurance through agents operating on the debit agency system under which system a weekly or monthly collection percentage is paid based either on actual weekly or monthly premium collections or weekly or monthly increases of premium collections.

(b) No such policy, or such policies, covering any of the same subjects of insurance shall be issued which provides indemnity exceeding the limits set by the commissioner as to any one loss resulting from any, or all, of the hazards or perils insured against.

(c) No such policy shall be issued except upon a monthly or weekly premium payment basis. No discount for premiums paid in advance shall exceed five percent for premiums paid for six months in advance or 10 percent for premiums paid for 12 months in advance. In no event shall premiums be collected for more than 12 months in advance.

§27-23-1. When insurer's liability absolute.

As to every contract of insurance made between an insurer and any insured by which such insured is insured against loss or damage on account of the bodily injury or death by accident of any person for which loss or damage such insured is

27th Day

responsible, whenever a loss occurs on account of a casualty covered by such contract of insurance, the liability of the insurer shall become absolute and the payment of the loss shall not depend upon the satisfaction by the insured of a final judgment against him for loss, or damage or death occasioned by the casualty. No such contract of insurance shall be cancelled or annulled by any agreement between the insurer and the insured after the insured has become responsible for such loss or damage, and any such cancellation or annulment shall be void. (Code 1940, T. 28, §11; Acts 1971, No. 407, p. 707, §484.)

§27-23-2. Rights of judgment creditors.

Upon the recovery of a final judgment against any person, firm or corporation by any person, including administrators or executors, for loss or damage on account of bodily injury, or death or for loss or damage to property, if the defendant in such action was insured against the loss or damage at the time when the right of action arose, the judgment creditor shall be entitled to have the insurance money provided for in the contract of insurance between the insurer and the defendant applied to the satisfaction of the judgment, and if the judgment is not satisfied within 30 days after the date when it is entered, the judgment creditor may proceed against the defendant and the insurer to reach and apply the insurance money to the satisfaction of the judgment.

ARTICLE 2.**CANCELLATION OF AUTOMOBILE LIABILITY INSURANCE.****§27-23-20. Definitions.**

For the purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section.

(1) **POLICY OF AUTOMOBILE LIABILITY INSURANCE.** A policy delivered, or issued for delivery, in this state insuring a natural person as named insured or one or more related individuals, resident of the same household, and under which the insured vehicles therein designated are of the following types only:

a. A motor vehicle of the private passenger or station type that is not used as a public or livery conveyance for passengers nor rented to others; or

b. Any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less which is not used in the occupation, profession or business of the insured; provided, however, that this article shall not apply:

1. To policies of automobile liability insurance issued under an automobile assigned risk plan;

2. To any policy insuring more than four automobiles; nor

3. To any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards and provided, further, that this article shall apply only to that portion of an automobile liability policy insuring against bodily injury and property damage liability and to the provisions therein, if any, relating to medical payments and uninsured motorists' coverage.

(2) **NONPAYMENT OF PREMIUM.** Failure of the named insured to discharge, when due, any of his obligations in connection with the payment of premiums on a policy of automobile liability insurance or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

§27-23-21. Reasons for cancellation.

(a) No notice of cancellation of a policy of automobile liability insurance shall be effective unless it is based on one or more of the following reasons:

- (1) Nonpayment of premium;
- (2) The policy was obtained through a material misrepresentation;
- (3) Any insured violated any of the terms and conditions of the policy;
- (4) The named insured failed to disclose fully his motor vehicle accidents and moving traffic violations for the preceding 36 months if called for in the application;
- (5) The named insured failed to disclose in his written application or in response to inquiry by his broker, or by the insurer or its agent information necessary for the acceptance or proper rating of the risk;
- (6) Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim;
- (7) Failure to maintain membership in any group or organization when such membership is a prerequisite to the purchase of such insurance;
- (8) The named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such policy:
 - a. Has within the 36 months prior to the notice of cancellation had his driver's license under suspension or revocation;
 - b. Is, or becomes, subject to epilepsy or heart attacks, and such individual does not produce a certificate from a physician testifying to his unqualified ability to operate a motor vehicle safely;
 - c. Has an accident record, conviction record (criminal or traffic), physical, mental or other condition which is such that his operation of an automobile might endanger the public safety;
 - d. Has within the 36 months prior to the notice of cancellation been addicted to the use of narcotics or other drugs;
 - e. Uses alcoholic beverage to excess;
 - f. Has been convicted or forfeited bail during the 36 months immediately preceding the notice of cancellation for:

1. Any felony;

2. Criminal negligence resulting in death, homicide or assault arising out of the operation of a motor vehicle;

3. Operating a motor vehicle while in an intoxicated condition or while under the influence of drugs;

4. Being intoxicated while in, or about, an automobile or while having custody of an automobile;

5. Leaving the scene of an accident without stopping to report;

6. Theft or unlawful taking of a motor vehicle;

7. Making false statements in an application for a driver's license; or

g. Has been convicted of or forfeited bail for three or more violations, within the 36 months immediately preceding the notice of cancellation, of any law, ordinance or regulation limiting the speed of motor vehicle laws of any state, violation of which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or different offenses; or

(9) The insured automobile is:

a. So mechanically defective that its operation might endanger public safety;

b. Used in carrying passengers for hire or compensation; provided, however, that the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation;

c. Used in the business of transportation of flammables or explosives;

d. An authorized emergency vehicle;

e. Changed in shape or condition during the policy period so as to increase the risk substantially; or

f. Subject to an inspection law and has not been inspected or, if inspected, has failed to qualify.

(b) This section shall not apply to any policy of automobile liability insurance which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

§27-23-22. Effect of renewal.

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

§27-23-23. Notice of cancellation -- Time; reasons.

No notice of cancellation of a policy to which section 27-23-21 applies shall be effective unless mailed or delivered by the insurer to the named insured at least 20 days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium, at least 10 days' notice of cancellation accompanied by the reason therefor shall be given. Unless the reason, or reasons, accompany or are included in the notice of cancellation, the notice of cancellation shall state, or be accompanied by a statement, that upon written request of the named insured, mailed or delivered to the insurer not less than 15 days prior to the effective date of cancellation, the insurer will specify the reason, or reasons, for such cancellation.

§27-23-24. Same -- Availability of assigned risk plan notification.

When a policy is cancelled other than for nonpayment of premium, the insurer shall notify the named insured of his possible eligibility for insurance through the automobile assigned risk plan. Such notice shall accompany, or be included in, the notice of cancellation and shall state that such notice of availability of the automobile assigned risk plan is given pursuant to this article.

§27-23-25. Same -- Proof of notice.

Proof of mailing of notice of cancellation or of reasons for cancellation to the named insured at the address shown in the policy shall be sufficient proof of notice.

§27-23-26. Specification of reasons for cancellation upon insured's request.

Where the reason, or reasons, for cancellation do not accompany or are not included in the notice of cancellation, the insurer shall, upon written request of the named insured, mailed or delivered to the insurer not less than 15 days prior to the effective date of cancellation, specify in writing the reason, or reasons, for such cancellation. Such reasons shall be mailed or delivered to the named insured within five days after nonpayment of premium. This section shall apply only to a cancellation to which section 27-23-21 applies.

§27-23-27. Liability of insurer, etc., for statements, etc.

There shall be no liability on the part of and no cause of action of any nature shall arise against any insurer, its authorized representative, its agents, its employees or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation for any statement made by any of them in any written notice of cancellation, for the providing of information pertaining thereto or for statements made or evidence submitted at the hearings conducted in connection therewith.

§27-23-28. Applicability of article to nonrenewal.

Nothing in this article shall apply to nonrenewal.

§27-24-1. Applicability of chapter.

This chapter shall not apply to any bond or undertaking which is not by law required to be approved by any state, county, municipal, precinct, township, district or other like office, officers, commissions, boards and similar governing bodies, or by any judge, clerk or register of any court of this state or to insurers engaged only in the business of becoming sureties on any such bond or undertaking.

§27-24-2. Sole surety -- Corporations.

Except as provided in section 27-24-4, whenever any person or corporation is, or may be, required or permitted to execute bond or other undertaking, of whatsoever nature, with surety, or sureties, for the faithful discharge or performance of the duties of any state, county, municipal, precinct, township, district or corporate office or position or of any position of public or private trust or employment for the faithful discharge or performance of any duty or for the doing or not doing of anything in such bond or undertaking specified or when any person or corporation is required or permitted to execute any bond or other undertaking, of whatsoever nature, with surety or sureties, in any judicial proceeding or as guardian, executor, administrator, receiver, assignee or trustee, the court, officer or person having authority or charged with the duty of approving such bond or undertaking may, if such bond or undertaking is otherwise sufficient, approve the same when executed by a corporation having the power or authority under its charter to become surety on such bond or undertaking as surety and having complied with the provisions of this title. The execution by any such corporation as surety of any such bond or undertaking shall be, in all respects, upon the approval and acceptance of such bond, a full and complete compliance with the requirements of any law, ordinance, rule or regulation requiring that such bond or undertaking shall be executed by one surety, or by one or more sureties, or that such surety, or sureties, shall be residents of the state, or any county therein, or shall be householders or freeholders, or either or both, or shall possess any other qualification. (Code 1940, T. 41, §98; Acts 1971, No. 407, p. 707, §487.)

§27-24-3. Same -- Mutual or reciprocal surety insurers.

An authorized mutual or reciprocal surety insurer which has and maintains a surplus over and above all of its liabilities of \$500,000.00, upon meeting all of the requirements of this title, except as to capital stock, may become and be accepted as sole surety on bonds or undertakings required or permitted by the laws of this state or by the charters, ordinances, rules and regulations of any county, municipal corporation, board, body, organization or public officer; provided, however, that any such bond or undertaking executed by such insurer shall be nonassessable and shall not provide for any contingent liability.

§27-24-4. Same -- Cosureties on bond of state treasurer.

No such corporation or insurer shall, however, be accepted as sole surety on the bond of the state treasurer but may become and be accepted as a cosurety with other persons or with other authorized surety insurers upon such bond, and in such event, its property or credit shall not be estimated to exceed \$100,000.00. (Code 1940, T. 41, §102; Acts 1971, No. 407, p. 707, §489.)

§27-24-5. Additional bond upon insolvency, etc., of surety.

If the authority of a surety insurer to transact business in this state is revoked or otherwise terminated upon the ground that the insurer is insolvent or cannot be safely accepted as surety upon bonds and undertakings mentioned in section 27-24-2, it shall be the duty of any officer in this state authorized to approve official bonds, upon receiving the circular letter from the commissioner as provided for in subsection (c) of section 27-3-22 or upon otherwise being informed of such revocation or termination, to require the principal in any such bond upon which such insurer has become surety to give an additional bond as provided by law.

§27-24-6. Venue of actions on bonds or undertakings.

Any official bond or undertaking executed by a surety insurer may have an action maintained on it in the county of the residence of the principal or in which he resided at the time of the execution of the bond or undertaking, but actions by the state shall be brought in Montgomery county. (Code 1940, T. 41, §104; Acts 1971, No. 407, p. 707, §491.)

§27-24-7. Estoppel of insurer to deny its power, etc.

No corporation or insurer having signed any such official bond or undertaking shall be permitted to deny its corporate or other power to execute such instrument or incur such liability in any proceedings to enforce liability against the insurer thereunder. (Code 1940, T. 41, §105; Acts 1971, No. 407, p. 707, §492.)

§27-24-8. Rights and remedies of insurers.

Such an insurer as surety on any official bond, undertaking or obligation is entitled to all the rights and remedies of other sureties on such instruments; and any insurer becoming surety on any bond or undertaking, as authorized by this chapter, shall have the same right to be relieved from further liability thereon or to require the principal to give new or additional bonds or undertakings as is conferred by law upon the other sureties on like bonds or undertakings. (Code 1940, T. 41, §107; Acts 1971, No. 407, p. 707, §493.)

§27-25-1. Enjoining of certain acts; revocation of charter for violating same.

If from any examination of a title insurer the commissioner finds that the insurer is violating any of the provisions of section 34-3-7, the commissioner shall so certify his findings in writing to the attorney general, and the attorney general shall forthwith bring an action in a court of competent jurisdiction in the state of Alabama to permanently enjoin the commission of such acts by the insurer. If the insurer violates any of the provisions of such an injunction, the attorney general shall forthwith bring an action in such court to revoke the corporate charter of such insurer, if a domestic corporation.

§27-26-1. Definitions.

For purposes of this chapter, the following words and phrases shall have the respective meanings ascribed by this section:

(1) **MEDICAL PRACTITIONER.** Anyone licensed to practice medicine or osteopathy in the state of Alabama, engaged in such practice, and shall include medical professional corporations, associations, and partnerships.

(2) **DENTAL PRACTITIONER.** Anyone licensed to practice dentistry in the state of Alabama, engaged in such practice, and such term includes professional dental corporations, associations and partnerships.

(3) **MEDICAL INSTITUTION.** Any licensed hospital, or any physicians' or dentists' offices or clinics containing facilities for the examination, diagnosis, treatment or care of human illnesses.

(4) **PROFESSIONAL CORPORATION.** Any medical or dental professional corporation or any medical or dental professional association.

(5) **PHYSICIAN.** Any person licensed to practice medicine in Alabama.

(6) **DENTIST.** Any person licensed to practice dentistry in Alabama.

(7) **HOSPITAL.** Such institutions as are defined in section 22-21-20 as hospitals.

(8) **OTHER HEALTH CARE PROVIDERS.** Any professional corporation or any person employed by physicians, dentists and hospitals who are directly involved in the delivery of health care services.

(9) **MEDICAL LIABILITY.** A finding by a judge, jury or arbitration panel that a physician, dentist, medical institution or other health care provider did not meet the applicable standard of care and that such failure was the proximate cause of the injury complained of, resulting in damage to the patient.

(10) **BOARD.** The board of directors of the joint underwriting association created by section 27-26-22.

§27-26-2. Purpose of chapter.

It is hereby declared by the legislature of the state of Alabama that the availability of medical liability insurance at reasonable rates for the medical profession, medical institutions and other health care providers is essential to provide adequate health services to the people of Alabama, and without such insurance, medical services by the medical profession may be curtailed, and that while the need for such insurance is increasing, availability is limited and likely to become increasingly so, unless remedial legislation is enacted. The legislature further finds and declares that by reason of complicated and highly technical medical concepts, and the existence of sophisticated medical techniques, decisions with respect to optional procedures of diagnosis and treatment have become increasingly complex and are necessarily made on the basis of professional judgment, on which opinions may and often will reasonably vary. It is the purpose of this chapter to insure that the citizens of the state of Alabama are able to receive necessary health services by providing an environment in which the medical profession can be assured of medical liability insurance coverage and be afforded reasonable protection against personal liability for consequences

proximately resulting from decisions with respect to diagnosis and treatment arrived at in the bona fide exercise of professional judgment.

§27-26-3. When sale condition of doing business in state.

Any insurance company writing casualty insurance in the state of Alabama which sells medical liability insurance in other states must make medical liability insurance available to Alabama physicians, hospitals and other health care providers as a condition of doing business in Alabama.

§27-26-4. Annual reports of carriers.

All insurance carriers writing medical liability insurance policies shall be required to make annual reports of the number of claims and cost incurred to the commissioner on such forms and in such manner as the commissioner may require.

§27-26-5. Reports of judgments and settlements; confidentiality; penalty.

(a) Any insurance company which sells medical liability insurance to Alabama physicians or their professional corporations or professional associations, or to hospitals or other health care providers shall be required to report to the state licensing agency which issues the license of the physician, hospital or other health care provider any final judgment or any settlement in or out of court resulting from a claim or action for damages for personal injuries caused by an error, omission or negligence in the performance of professional services with or without consent rendered by its policyholder within 30 days after entry of a judgment in court or agreement to settle a claim in or out of court.

(b) The report rendered to the appropriate state agency shall consist of the name of the policyholder, or if the policyholder is a professional corporation or professional association, the name of the physician or physicians against whom the claim was made, the name of the claimant, a summary of the allegations made in the lawsuit, the injuries incurred by the claimant and the terms of the judgment or settlement.

(c) The report rendered pursuant to the requirements of this section, and any and all information, interviews, reports, statements, memorandum, or other documents produced by the licensing board as a result of any investigation of the subject matter of the report are declared to be privileged and confidential. All such records, reports, proceedings or other documents and any findings, conclusions, recommendations or actions of the licensing board shall be confidential and shall not be public records nor available for court subpoena or for discovery proceedings. Nothing contained herein shall apply to records made in the regular course of business of a physician, hospital or other health care provider and information, documents or records otherwise available from original sources are not to be construed as immune from discovery or use in civil proceedings merely because they were presented to or considered by the licensing board.

(d) The failure to make the reports required by this section within the time periods which are provided shall be punishable under section 27-1-12.

ARTICLE 2

JOINT UNDERWRITING ASSOCIATION

§27-26-20. Purpose.

The purpose of the joint underwriting association shall be to provide a market for medical liability insurance on a self-supporting basis without subsidy from its members.

§27-26-21. Creation; composition.

A joint underwriting association is hereby created, consisting of all insurers authorized to write and engage in writing, within this state on a direct basis, property and casualty insurance as defined in sections 27-5-5 and 27-5-6. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to continue to transact such kind of insurance in this state.

§27-26-22. Board of directors.

The association shall be governed by a board of 11 directors, to be appointed for one-year terms by the commissioner. Two of such 11 shall represent insurers which write property and casualty insurance in Alabama, as defined in sections 27-5-5 and 27-5-6 in Alabama and are members of the National Association of Independent Insurers, two shall represent insurers which write property and casualty insurance in Alabama, as defined in sections 27-5-5 and 27-5-6 and are members of the American Insurance Association, two shall represent insurers which write property and casualty insurance in Alabama, as defined in sections 27-5-5 and 27-5-6 and are members of the American Mutual Insurance Alliance, two shall represent insurers which write property and casualty insurance in Alabama, as defined in sections 27-5-5 and 27-5-6 but are not members of any of the foregoing trade associations. Three directors shall be appointed by the commissioner of insurance as representatives of accident and health insurers and prepaid medical, surgical and dental service plan providers. Directors shall be reimbursed out of the administrative funds of the joint underwriting association for necessary and actual expenses incurred for attending meetings of the governing board.

§27-26-23. Powers and duties generally.

The association shall, pursuant to the provisions of this chapter and the plan of operation with respect to medical liability insurance, have the power on behalf of its members to:

(1) Issue, or to cause to be issued, policies of insurance to applicants, including incidental coverages and subject to limits as specified in the plan of operation but not to exceed \$1,000,000.00 for each claimant under one policy in any one year;

(2) Underwrite such insurance and adjust and pay losses with respect thereto, or appoint service companies to perform those functions;

(3) Assume reinsurance from its members; and

(4) Cede reinsurance.

§27-26-24. Cooperation with board and policyholders.

The association and its members are authorized and encouraged to cooperate with the board and the association's actual or prospective policyholders on all matters pertaining to the board's duties and the insurance issued or to be issued by the association.

§27-26-25. Plan of operation.

(a) Within 45 days following the creation of the association, the directors of the association shall submit to the commissioner, for his review, a proposed plan of operation, consistent with the provisions of this chapter.

(b) The plan of operation shall provide for economic, fair and nondiscriminatory administration and for the prompt and efficient provisions of medical liability insurance, and shall contain other provisions including but not limited to preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities, management of the association, assessment of members to defray losses and expenses, commission arrangements, reasonable and objective underwriting standards, acceptance and cession of reinsurance, appointment of servicing carriers or other servicing arrangements and procedures for determining amounts of insurance to be provided by the association.

(c) The plan of operation shall be subject to approval by the commissioner after consultation with the members of the association, representatives of the public and other affected individuals and organizations. If the commissioner disapproves all or any part of the proposed plan of operation, the directors shall within 15 days submit for review an appropriate revised plan of operation or part thereof. If the directors fail to do so, the commissioner shall promulgate a plan of operation or part thereof, as the case may be. The plan of operation approved or promulgated by the commissioner shall become effective and operational upon order by the commissioner.

(d) Amendments to the plan of operation may be made by the directors of the association, subject to the approval of the commissioner, or shall be made at the direction of the commissioner.

§27-26-26. When underwriting operations commenced.

The association shall not commence underwriting operations for physicians until the commissioner, after due hearing and investigation, has determined that medical liability insurance cannot be made available for physicians in the voluntary market. Upon such determination the association shall be an agency through which medical liability insurance may be written in this state on a primary basis for physicians. The association may also issue premises liability insurance to physicians, but need not be the exclusive agency through which either medical liability or premises liability insurance may be issued.

The association shall not commence underwriting operations for hospitals until the commissioner, after due hearing and investigation, has determined that medical liability insurance is not readily available for hospitals in the voluntary market. Upon such determination the association shall be authorized to issue policies of medical liability insurance and premises liability insurance to physicians, but need not be the exclusive agency through which such insurance may be written on a primary basis in this state.

The association shall not commence underwriting operations for other licensed health care providers until the commissioner, after due hearing and investigation, has determined that medical liability insurance cannot be made available for a specific type of licensed health care provider in the voluntary market. Upon such determination the association shall be the exclusive agency through which medical liability insurance may be written in this state on a primary basis for such specific type of health provider.

If the commissioner determines at any time that medical liability insurance can be made available in the voluntary market for either physicians, hospitals or any specific type of other licensed health care provider, the association shall thereby cease its underwriting operations for such medical liability insurance which he has determined can be made available in the voluntary market.

§27-26-27. Stabilization reserve fund – Generally.

(a) There is hereby created a stabilization reserve fund. The fund shall be administered by three directors, one of whom shall be the commissioner or his deputy. The remaining two directors shall be appointed by the commissioner. One shall be a representative of the association, the other a representative of its policyholders.

(b) The directors shall act by majority vote with two directors constituting a quorum for the transaction of any business or the exercise of any power of the fund. The directors shall serve without salary, but each director shall be reimbursed for actual and necessary expenses incurred in the performance of his official duties as a director of the fund. The directors shall not be subject to any personal liability or accountability with respect to the administration of the fund.

§27-26-28. Same – Charge.

(a) Each policyholder shall pay to the association a stabilization reserve fund charge equal to one third of each premium payment due for insurance through the association. Such charge shall be separately stated in the policy. The association shall cancel the policy of any policyholder who fails to pay the stabilization reserve fund charge.

(b) The association shall promptly pay to the trustee of the fund all stabilization reserve fund charges which it collects from its policyholders and any retrospective premium refunds payable under the group retrospective rating plan authorized by this chapter.

§27-26-29. Recoupment of shares of deficit.

(a) The association shall certify to the commissioner the estimated amount of any deficit remaining after the stabilization reserve fund has been exhausted in payment of the maximum final premium for all policyholders of the association. Within 60 days after such certification the commissioner shall authorize the members of the association to commence recoupment of their respective shares of the deficit by one of the following procedures:

(1) Applying a surcharge to be determined by the association at a rate not to exceed two percent of the annual premiums on future policies affording those kinds of insurance which form the basis for their participation in the association under procedures established by the association; or

(2) Deducting their share of the deficit from past or future (franchise and/or premium) taxes due the state of Alabama.

(b) If the commissioner fails within 60 days to authorize one of the above procedures, each member of the association may commence recoupment of its deficit by the second procedure described above. The association shall amend the amount of its certification of deficit to the commissioner as the values of its incurred losses become finalized and the members of the association shall amend their recoupment procedure accordingly.

§27-26-30. Holding in trust and investing of funds.

All money received by the fund shall be held in trust by a corporate trustee selected by the directors. The corporate trustee may invest the money held in trust, subject to the approval of the directors. All investment income shall be credited to the fund. All expenses of administration of the fund shall be charged against the fund. The money held in trust shall be used solely for the purpose of discharging when due any retrospective premium charges payable by policyholders of the association under the group retrospective rating plan authorized by this chapter. Payment of retrospective premium charges shall be made by the directors upon certification to them by the association of the amount due. If all money accruing to the fund is finally exhausted in payment of retrospective premium charges, all liability and obligations of the association's policyholders with respect to the payment of retrospective premium charges have been paid shall be returned to policyholders upon procedures authorized by the directors.

§27-26-31. Insufficiency of funds.

In the event that sufficient funds are not available for the sound financial operation of the association, pending recoupment, as provided in subsection (a) of section 27-26-25, all members shall, on a temporary basis contribute to the financial requirements of the association in the manner provided for in section 27-26-37. Any such contribution shall be reimbursed to the members by recoupment as provided in section 27-26-29.

§27-26-32. Application for coverage.

Any licensed physician, hospital or other licensed health care provider shall, on or after the effective date of the plan of operation, be entitled to apply to the

association for such coverage. Such application may be made on behalf of an applicant by a broker or agent authorized by the applicant.

§27-26-33. Policies generally.

All policies issued by the association shall be issued subject to the group retrospective rating plan for each of the groups described in section 27-26-26 and the stabilization reserve fund authorized by this chapter. All such policies shall be written so as to apply to injury which results from acts or omissions during the policy period, commonly designated as occurrence type policies. No policy form shall be used by the association unless it has been filed with the commissioner and either he has approved it or 30 days have elapsed and he has not disapproved it as misleading or violative of public policy.

§27-26-34. Issuance of policy.

If the association determines that the applicant meets the underwriting standards of the association as prescribed in the plan of operation and there is no unpaid, uncontested premium due from the applicant for prior insurance (as shown by the insured having failed to make written objection to premium charges within 30 days after billing) then the association, upon receipt of the premium, or such portion thereof as is prescribed in the plan of operation, shall cause to be issued a policy of medical liability insurance.

§27-26-35. Cancellation of policies.

Cancellation of the association's policies shall be governed by the same laws governing other insurance policies; except, that the association may also cancel any of its policies in the event of nonpayment of any stabilization reserve fund charge by mailing or delivering to the insured at the address shown on the policy written notice stating when, not less than 10 days after such notice, cancellation shall be effective.

§27-26-36. Rating plans.

(a) The rates, rating plans, rating rules, rating classifications and territories applicable to the insurance written by the association and statistics relating thereto shall be subject to the same laws applicable to casualty policies, giving due consideration to the past and prospective loss and expense experience for medical liability insurance written and to be written in this state, trends in the frequency and severity of losses, the investment income of the association, and such other information as the commissioner may require. All rates shall be on an actuarially sound basis, giving due consideration to the group retrospective rating plan and the stabilization reserve fund, and shall be calculated to be self-supporting. The commissioner shall take all appropriate steps to make available to the association the loss and expense experience of insurers previously writing medical liability insurance in this state.

(b) All policies issued by the association shall be subject to a nonprofit group retrospective rating plan to be approved by the commissioner under which the final premiums for all policyholders of the association, as a group, will be equal to the administrative expenses, loss and loss adjustment expenses and taxes, plus a reasonable allowance for contingencies and servicing. Policyholders shall

be given full credit on all investment income, net of expenses and a reasonable management fee, on policyholder supplied funds. The standard premium (before retrospective adjustment) for each policy period issued by the association shall be established for portions of the policy period coinciding with the association's fiscal year on the basis of the association's rates, rating plans, rating rules, rating classifications, and territories then in effect. The maximum final premium for all policyholders of the association, as a group, shall be limited as provided in section 27-26-30. Since the business of the association is subject to the nonprofit group retrospective rating plan required by this subsection, there shall be a strong presumption that the rates filed and premiums for the business of the association are not unreasonable or excessive.

(c) The commissioner shall examine the business of the association as often as he deems appropriate to make certain that the group retrospective rating plan is being operated in a manner consistent with this section. If he finds that it is not being so operated, he shall issue an order to the association specifying in what respects its operation is deficient and stating what corrective action shall be taken.

§27-26-37. Proration of participation in writings, expenses, etc.

All insurers which are members of the association shall participate in its writings, expenses, servicing allowance, management fees and losses in the proportion that the net direct premiums of each such member (excluding that portion of premium attributable to the operation of the association) written during the preceding calendar year bears to the aggregate net direct premiums written in this state by all members of the association. Each insurer's participation in the association shall be determined annually on the basis of such net direct premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the insurer with the commissioner.

§27-26-38. Annual statements.

The association shall file in the office of the commissioner annually on or before the first day of March, a statement which shall contain information with respect to its transactions, condition, operations and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed and shall be in such form as is approved by the commissioner. The commissioner may, at any time, require the association to furnish additional information with respect to its transactions, condition or any matter connected therewith considered to be material and of assistance in evaluating the scope, operation and experience of the association.

§27-26-39. Examination of association's affairs.

The commissioner shall make an examination into the affairs of the association at least annually.

§27-26-40. Liability for statements made during proceedings, etc.

There shall be no liability on the part of, and no cause of action of any nature shall arise against, the board, the association, the commissioner or his

authorized representatives or any other person or organization, for any statements made in good faith by them during any proceedings or concerning any matters within the scope of this chapter.

§27-26-41. Effect of public officer's or employee's membership on board or directors of fund.

No member of the board or the directors of the stabilization reserve fund who is otherwise a public officer or employee shall suffer a forfeiture of his office or employment or any loss or diminution in the rights and privileges appertaining thereto, by reason of membership on the board or serving as a director of the stabilization reserve fund.

§27-26-42. Appeal to commissioner.

Any applicant to the association, any person insured pursuant to this chapter or their representatives, or any affected insurer, may appeal to the commissioner within 30 days after any ruling, action or decision by or on behalf of the association, with respect to those items the plan of operation defines as appealable matters.

§27-26-43. Judicial review of commissioner's orders.

All orders of the commissioner made pursuant to this chapter shall be subject to judicial review; provided, that notwithstanding any other provisions of law, proceedings for review shall act as a stay of enforcement of any order or decision of the commissioner disapproving or ordering the withdrawal, adjustment or termination of the effectiveness of any rate filing made by or on behalf of the association on the ground that the rates or premiums for the business of the association are unreasonable or excessive, and the association may continue to charge rates pursuant to such filing pending final order of the court.

§27-27-1. Definitions.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

(1) STOCK INSURER. An incorporated insurer with capital divided into shares and owned by its stockholders.

(2) DOMESTIC MUTUAL INSURER. An incorporated insurer without capital stock and the governing body of which is elected as provided in this chapter.

§27-27-2. Applicability of chapter.

This chapter shall apply only to domestic stock insurers and domestic mutual insurers; except, that:

(1) Sections 27-27-4 through 27-27-14, relative to sale of securities or other financing of insurers or insurance operations, and subsection (b) of section 27-27-24 shall also apply as to foreign and alien insurers; and

(2) This chapter shall be applicable as to mutual aid associations as stated in chapter 30 of this title and as to fraternal benefit societies as stated in chapters 34 and 35 of this title.

§27-27-3. Power of domestic insurers to indemnify directors, etc.

Without limiting the powers and authorities of domestic insurers, as provided in section 27-27-61, a domestic insurer shall have the power and is hereby authorized to indemnify any director, officer or employee, or former director, officer or employee of the corporation, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor against expenses actually and reasonably incurred by him in connection with the defense of any action or proceeding, civil or criminal, in which he is made a party by reason of being, or having been, such director or officer, except in relation to matters as to which he shall be adjudged in such action or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation and to make any other indemnification that shall be authorized by the articles of incorporation or by any bylaw or resolution adopted by the shareholders after notice or as may be authorized under any other statute of this state dealing with the right of a corporation to indemnify officers, directors and employees or to purchase insurance for such indemnification.

§27-27-4. Solicitation permit – Requirement.

(a) No person forming, or proposing to form, in this state or secure funds in this state for the financing of an insurer, or insurance holding corporation or stock corporation to finance an insurer or corporation to be attorney-in-fact for a reciprocal insurer or a syndicate, association, firm, partnership or organization for any such purposes, whether domestic or foreign, shall advertise or solicit or receive any funds, subscription or membership on account thereof in this state except as authorized by a currently effective solicitation permit issued by the commissioner, in addition to complying with other applicable provisions of the law.

(b) Any person violating this section shall, upon conviction thereof, be subject to a fine of not more than \$10,000.00 or imprisonment for not more than 10 years, or by both such fine and imprisonment.

(c) Any insurer violating this section, in addition to any other penalties provided by law, shall be forever barred from being authorized to transact insurance in this state.

§27-27-5. Same -- Application.

To apply for a solicitation permit, the person shall:

(1) File with the commissioner a request therefor showing:

a. Name, type and purpose of insurer, corporation, syndicate, association, firm, partnership or organization formed or proposed to be formed;

b. Names, addresses, business background and qualifications of each person associated, or to be associated, in the enterprise or in the formation of the

proposed insurer, corporation, syndicate, association, firm, partnership or organization;

c. Full disclosure of the terms of all pertinent understandings and agreements existing or proposed among persons so associated; and copies of all such agreements, relative to the proposed financing of the insurer, corporation, syndicate, association, firm, partnership or organization, or the formation thereof;

d. The plan according to which solicitations are to be made; and

e. Such additional information as the commissioner may reasonably require;

(2) Submit to the commissioner:

a. The executed and acknowledged triplicate originals of the proposed articles of incorporation of any proposed domestic insurer, a certified copy of the articles of incorporation of any proposed domestic insurer, a certified copy of the articles of incorporation of any foreign insurer or of any other corporation proposing to sell its securities as referred to in section 27-27-4, and copy of any syndicate, association, firm, partnership, organization or other similar agreement, by whatever name called, if funds for any of the purposes referred to in section 27-27-4 are to be secured through the sale of any security, interest, or right in, or relative to, such syndicate, association, firm, partnership or organization and, if the proposed insurer is a domestic reciprocal insurer, an original and duplicate copy of the proposed power of attorney and of any other agreements proposed as affecting investors, subscribers, the attorney-in-fact and the insurer or proposed insurer;

b. Original and duplicate copy of any proposed bylaws;

c. Copy of any security, receipt or certificate proposed to be issued and copy of the proposed application or subscription agreement therefor;

d. Copy of any insurance contract proposed to be offered by a proposed domestic mutual or reciprocal insurer and copy of application therefor;

e. Copy of any prospectus, advertising or sales literature proposed to be used;

f. Copy of proposed form of any escrow agreement required; and

g. Irrevocable appointment of the commissioner as process agent to receive service of process issued in this state arising out of any transactions under a solicitation permit, if issued, the appointment to be on a form as prescribed and furnished by the commissioner;

(3) Deposit with the commissioner the fees required under section 27-4-2 and otherwise by law to be paid for the application, for filing of the articles of incorporation of an insurer, for filing the subscribers' agreement and attorney-in-fact agreement, if the proposed insurer is a reciprocal, and for the solicitation permit, if granted; and

(4) In lieu of a special filing of the information, or part thereof, called for in subdivision (1) of this section, the commissioner may, in his discretion, accept a duplicate copy of any filing made with any other state or federal agency relative to the same offering or proposed offering.

§27-27-6. Same -- Approval or denial.

(a) The commissioner shall expeditiously examine the application for a solicitation permit and make such investigation relative thereto as he deems necessary, subject to subsection (b) of this section, if he finds that:

- (1) The application is complete;
- (2) The documents therewith filed are proper in form; and

(3) The proposed articles of incorporation of any proposed domestic insurer comply with this title and are not in conflict with the Constitution and laws of the United States or of this state;

He shall give notice to the applicant that he will approve and file the articles of incorporation, if a proposed corporation, and issue a solicitation permit, stating the terms to be contained therein, upon the filing of any bond required by sections 27-27-10 or 27-27-16.

(b) If the commissioner does not so find, or finds that any proposed sale of securities would be, or tend to be, fraudulent or inequitable as to present or proposed security holders or investors, or if he finds that any of the individuals associated or to be associated in the insurer, corporation, syndicate, association, partnership, firm, organization or financing are not of good character, or that the insurer if formed or, if an applicant for a certificate of authority, would not be able to qualify for a certificate of authority by reason of the provisions of subdivision (3) of section 27-3-4, he shall give notice to the applicant that a solicitation permit will not be granted, stating the grounds therefor, return any proposed articles of incorporation to the applicant and refund to the applicant all sums so deposited, except the fee for application for a solicitation permit.

§27-27-7. Same -- Issuance; contents; compliance with terms.

(a) Upon the filing of any bond required by sections 27-27-10 or 27-27-16, after notice by the commissioner provided for in subsection (a) of section 27-27-6, or upon his decision to grant a solicitation permit if such a bond is not so required, the commissioner shall issue to the applicant or to the newly formed corporation, if the application is on behalf of a newly formed incorporated domestic insurer, a solicitation permit. Every solicitation permit issued by the commissioner shall contain provisions in substance as follows:

(1) State the securities or other rights or interests for which subscriptions are to be solicited, the number, classes, par value and selling price thereof, or identify the insurance contract, or contracts, for which applications and advance premiums or deposits of premium are to be solicited in the case of mutual or reciprocal insurers;

(2) Require that any particular class of securities, rights and interests proposed to be sold or offered under the permit shall be so sold and offered at the same price to all parties and that, if more than one class of securities, rights, or interests are to be offered, each subscriber shall have the right to acquire some of each such class in accordance with such reasonable combination of classes into subscription units as may be approved by the commissioner;

(3) Require that all such subscriptions and premiums shall be payable only in lawful money of the United States of America except where stock or other securities are to be issued in exchange for securities or rights thereto under a plan approved by the commissioner of merger, consolidation, recapitalization or refinancing of an insurer or other corporation;

(4) Limit the portion of funds received on account of stock or syndicate, association, partnership, firm or organization subscriptions which may be used for promotion, securities sales and organization expenses to such amount as the commissioner deems to be reasonably adequate under the proposed plan of solicitation, but in no event to exceed 15 percent of such funds as and when the funds are actually received;

(5) If to be a mutual or reciprocal insurer, limit the portion of funds received on account of applications for insurance which may be used for promotion, sales or organization expenses to a reasonable commission upon such funds, giving consideration to the kind of insurance and policy involved and to the costs incurred by insurers generally in the production of similar business and provide that no such commission shall be deemed to be earned or paid until the insurer has received its certificate of authority and the policies applied for, upon which the commission is to be based, have been actually issued and delivered;

(6) Prohibit the granting of any options to subscribe to, buy or acquire, in any way, any securities, rights or interests other than options made a part of convertible securities constituting the proposed offering, in whole or in part, and made available on a uniform basis to all subscribers to any such securities, rights or interests;

(7) Prohibit, by any promoter or other person associated or to be associated in the proposed insurer, corporation, syndicate, firm, partnership or organization or in solicitations under the permit, the resale or transfer of his interest in any security, right or interest of the kind proposed to be offered under the solicitation permit or any other interest or right which he may have in, or as to, the same entity prior to the completion of sale of all securities, rights and interests proposed to be offered or sold under the solicitation permit. In connection with this subdivision, the commissioner may, in his discretion, require that any security, right or interest the resale or transfer of which is prohibited in this subdivision shall be deposited and held in escrow pending the completion of the sales or offering under the solicitation permit;

(8) State in boldface type that the permittee must comply with chapter 6 of Title 8 of this Code, if such chapter is applicable, and with other applicable laws of the state of Alabama;

(9) That the permit shall expire not more than two years from its date of issue, unless earlier terminated by the commissioner; if, however, in connection with a proposed offering of securities by a domestic insurer or corporation a registration thereof, or filing with respect thereto, is required by law to be made with any federal agency, the effective period of the permit may, in the commissioner's discretion, commence upon the effective date of such registration or filing if subsequent to the date of issuance of the permit; and

(10) Contain such other reasonable conditions relative to accounting, reports, deposits or other matters consistent with the provisions of this chapter as the commissioner deems advisable for the protection of existing or prospective investors.

(b) The holder of the solicitation permit and its directors, officers, employees, agents and representatives shall comply with the terms of the permit.

§27-27-8. Same -- Effect of granting permit.

The granting of a solicitation permit is permissive only and shall not constitute an endorsement by the commissioner of any person or thing related to any such insurer, corporation, syndicate, association, partnership, firm, organization or financing, and the existence of the permit shall not be advertised or used as an inducement in any solicitation. The commissioner shall place the substance of this section in boldface type at the top of each solicitation permit issued by him.

§27-27-9. Same -- Modification or revocation.

(a) The commissioner may, for cause, modify a solicitation permit theretofore issued or may, after a hearing, revoke any solicitation permit for violation of any provision of this title, or of the terms of the permit, or of any proper order of the commissioner or for misrepresentation in the offering or sale of securities or policies under the permit.

(b) The commissioner shall revoke the solicitation permit if requested in writing by a majority of the syndicate members, or by a majority of the incorporators and two-thirds of the subscribers to stock or applicants for insurance in the proposed incorporated insurer or corporation or if he is so requested by a majority of the subscribers of a proposed reciprocal insurer.

§27-27-10. Same -- Bond or deposit in lieu thereof; waiver of same.

(a) Except as to proposed domestic insurers which are subject to the requirements of section 27-27-16, the commissioner shall not issue a solicitation permit until the applicant therefor has filed with him a corporate surety bond in the penalty of \$15,000.00 in favor of the state of Alabama and for the use and benefit of the state and of proposed Alabama investors in and creditors of the proposed organization.

(b) The bond shall be conditioned upon the payment of costs incurred by the state in event of any legal proceedings for liquidation or dissolution of the proposed organization before completion of organization or in event a certificate of

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authority is not granted and upon a full accounting for funds received until the proposed insurer has been granted its certificate of authority or until the proposed corporation, syndicate, organization or financing has been completed as defined in the solicitation permit.

(c) In lieu of filing such bond, the applicant may deposit with the state treasurer through the commissioner \$15,000.00 in cash, or its equivalent, or in United States government bonds at par value, to be held in trust under the same conditions as required for the bond.

(d) The commissioner may, in his discretion, waive the requirement for a bond or deposit in lieu thereof if the solicitation permit provides that:

(1) The proposed securities are to be distributed solely and finally to those few persons who are the active promoters intimate to the formation of the insurer or other corporation, syndicate, or organization; or

(2) The securities are to be issued in connection with subsequent financing as provided in section 27-27-14.

(e) Any bond filed or deposited, or remaining portion thereof, held under this section shall be released and discharged upon settlement or termination of all liabilities against it.

§27-27-11. Licensing of securities salesmen.

Solicitation for sale of securities under a solicitation permit shall be made only by individuals licensed as securities salesmen pursuant to the provisions of the Alabama Securities Act.

§27-27-12. Deposit of solicitation permit funds in escrow -- Requirement.

(a) All funds received in Alabama pursuant to a solicitation permit, other than advance premiums for insurance which are subject to section 27-27-18, shall, by the permit holder, be deposited and held in escrow in a bank or trust company located in this state under an agreement approved by the commissioner.

(b) No part of such funds shall be withdrawn from such deposit, except:

(1) For the payment of promotion, sales and organization expenses as authorized by the solicitation permit, and funds for such purposes may be withheld from the deposit;

(2) For the purpose of making any deposit with the commissioner required for the issuance of a certificate of authority to an insurer;

(3) If the proposed organization is not to be an insurer, upon completion of payments on securities subscriptions made under the solicitation permit and deposit or appropriation of such funds to the purposes specified in the solicitation permit; or

(4) For making of refunds as provided in section 27-27-13.

(c) When the commissioner has issued a certificate of authority to an insurer, any such funds remaining in escrow for its account shall be released to the insurer.

(d) The commissioner may waive compliance with this section as to funds required to be deposited in escrow or trust in similar institutions and for similar purposes as set forth in this section pursuant to any other law of this state.

§27-27-13. Same -- Withdrawal and refund.

The commissioner shall withdraw all funds held in escrow under section 27-27-12, and refund to securities subscribers or purchasers all sums paid in on securities subscriptions, less that part of such sums paid in as has been allowed and used for promotion, sales and organization expenses, and shall dissolve the proposed domestic insurer, corporation, syndicate or organization if:

(1) It fails to complete its organization or financing and obtain full payment for subscriptions and, if to be an insurer, it fails to secure its certificate of authority, all before expiration of the solicitation permit; or

(2) The commissioner revokes the solicitation permit.

§27-27-14. Solicitation permit for subsequent financing.

(a) No insurer, or insurance holding corporation, or stock corporation for financing operations of a mutual insurer, or attorney-in-fact corporation, or a reciprocal insurer or any other type of organization existing for the same purpose, after:

(1) It has received a certificate of authority, if an insurer, in this or any other state; or

(2) It has completed its initial organization and financing, if a corporation, syndicate or other organization other than an insurer, shall in this state solicit or receive funds in exchange for its securities, other than when combining and selling, for the account of its stockholders entitled thereto, fractional shares to which they become entitled through a stock dividend to existing stockholders until it has applied to the commissioner for, and has been granted, a solicitation permit.

(b) The commissioner shall issue such a permit unless he finds:

(1) That the funds proposed to be secured are excessive in amount for the purposes intended;

(2) That the proposed securities or the manner of their distribution are inequitable; or

(3) That the offering or issuance of the securities would be unfair to existing or prospective holders of securities of the same insurer, corporation, syndicate or organization.

(c) Any such solicitation permit granted by the commissioner shall be for such duration and shall contain such terms, and be issued upon, such conditions as the commissioner may reasonably specify or require for the protection of existing or proposed policyholders or investors.

(d) This section is supplemental to other laws of this state applicable to the sale of securities.

§27-27-16. Same – Bond or deposit in lieu thereof.

(a) Before soliciting any applications for insurance required under section 27-27-15, as qualification for the original certificate of authority, the incorporators of the proposed mutual insurer shall file with the commissioner a corporate surety bond in the penalty of \$15,000.00 in favor of the state of Alabama and for the use and benefit of the state and of applicant members and creditors of the corporation. The bond shall be conditioned as follows:

(1) Upon payment of any loss suffered by applicants who have cancelled or lapsed existing insurance policies due to misrepresentation by the incorporators or by persons soliciting such applications under authorization by the corporation, to the effect that the making of such application for insurance and prepayment of premiums in such proposed insurer provides insurance protection prior to issuance of a certificate of authority to such insurer by the commissioner; and

(2) That in event the corporation fails to complete its organization and secure a certificate of authority issued by the commissioner within one year after the date of its certificate of incorporation, all premiums collected in advance from applicant members will be promptly returned to them, all other indebtedness of the corporation, other than any compensation to directors, officers or solicitors of insurance applications, will be paid and for payment of costs incurred by the state in event of any legal proceedings for liquidation or dissolution of the corporation.

(b) In lieu of such a bond, the incorporators may deposit with the commissioner \$15,000.00 in cash, or its equivalent, or in United States government bonds at par value, to be held in trust upon the same conditions as required for the bond.

(c) Any such bond filed or deposit, or remaining portion thereof, held under this section shall be released and discharged upon settlement and termination of all liabilities against it under this section.

§27-27-17. Same – Solicitation of qualifying applications for insurance.

(a) Upon receipt of the commissioner's approval of the bond or deposit as provided in section 27-27-16 the directors and officers of the proposed domestic mutual insurer may commence solicitation of such requisite applications for insurance policies as they may accept and may receive deposits of premiums thereon.

(b) All such applications shall be in writing signed by the applicant, covering subjects of insurance resident, located or to be performed in this state.

(c) All such applications shall provide that:

(1) Issuance of the policy is contingent upon the insurer qualifying for and receiving a certificate of authority;

(2) No insurance is in effect unless and until the certificate of authority has been issued; and

(3) The prepaid premium or deposit and membership or policy fee, if any, shall be refunded in full to the applicant if organization is not completed and the certificate of authority is not issued and received by the insurer before a specified reasonable date, which date shall be not later than one year after the date of the certificate of incorporation.

(d) All qualifying premiums collected shall be in cash.

(e) Solicitation for such qualifying applications for insurance shall be by licensed agents of the corporation, and the commissioner shall, upon the corporation's application therefor, issue temporary agent's licenses expiring on the date specified pursuant to subdivision (c) (3) of this section to individuals qualified as for a resident agent's license, except as to the taking or passing of an examination. The commissioner may suspend or revoke any such license for any of the causes and pursuant to the same procedures as are applicable to suspension or revocation of licenses of agents in general under chapter 7 of this title.

§27-27-18. Same -- Deposit in trust of premiums or fees on qualifying applications.

(a) All sums collected by a domestic mutual corporation as premiums or fees on qualifying applications for insurance therein shall be deposited in trust in a bank or trust company in this state under a written trust agreement approved by the commissioner and consistent with this section and with subdivision (c) (3) of section 27-27-17. The corporation shall file an executed copy of such trust agreement with the commissioner.

(b) Upon issuance to the corporation of a certificate of authority as an insurer for the kind of insurance for which such applications were solicited, all funds so held in trust shall become the funds of the insurer, and the insurer shall, thereafter in due course, issue and deliver its policies for which premiums had been paid and accepted. The insurance provided by such policies shall be effective as of the date of the certificate of authority or thereafter as provided by the respective policies.

§27-27-19. Same -- Failure to complete organization.

If the proposed domestic mutual insurer fails to complete its organization and to secure its original certificate of authority within one year from, and after, date of its certificate of incorporation, the corporation shall transact no further business, and the commissioner shall return, or cause to be returned, to the persons entitled thereto all advance deposits or payments of premiums held in trust under section 27-27-18.

§27-27-20. Same -- Authorization to transact additional kinds of insurance.

A domestic mutual insurer, after being authorized to transact one kind of insurance, may be authorized by the commissioner to transact such additional kinds of insurance as are permitted under section 27-3-6, while otherwise in compliance with this title and while maintaining unimpaired surplus funds in an amount not less than the amount of paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance, subject further to the additional expendable surplus requirements of section 27-3-8 applicable to such a stock insurer.

§27-27-21. Same -- Membership.

(a) Each policyholder of a domestic mutual insurer, other than of a reinsurance contract, is a member of the insurer with all rights and obligations of such membership, and the policy shall so specify.

(b) Any individual, or firm or any public or private corporation, board or association in this state, or elsewhere, may make application, enter into agreements for and hold policies in any such mutual insurer. Any officer, stockholder, trustee or local representative of any such corporation, board, association or estate may be recognized as acting for, or on its behalf for, the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this state to participate as a member of any such insurer is declared to be incidental to the purpose for which the corporation is organized and as much granted as the rights and powers expressly conferred.

(c) The right of certain governmental bodies or agencies of this state to become, and be, policyholders of mutual insurers shall be as provided by the laws of this state governing such bodies or agencies.

§27-27-22. Same -- Bylaws.

(a) A domestic mutual insurer shall have bylaws for the government of its affairs. The initial board of directors of a domestic mutual insurer shall adopt original bylaws, subject to the approval of the insurer's members at the next succeeding meeting. The members shall have power to make, modify and revoke bylaws.

(b) The bylaws shall provide:

(1) That each member is entitled to one vote upon each matter coming to a vote at meetings of members or to more votes in accordance with a reasonable classification of members as set forth in the bylaws and based upon the amount of insurance in force, number of policies held or upon the amount of the premiums paid by such member or upon other reasonable factors. A member shall have the right to vote in person or by his written proxy made not less than 30 days prior to the meeting. No such proxy shall be made irrevocable for longer than a period of three years;

(2) For election of directors by the members and the number, qualifications, terms of office and powers of directors;

(3) The time, notice, quorum and conduct of annual and special meetings of members and voting thereat. The bylaws may provide that the annual meeting shall be held at a place, date and time to be set forth in the policy and without giving other notice of such meeting;

(4) The number, designation, election, terms, powers and duties of the respective corporate officers;

(5) For deposit, custody, disbursement and accounting for corporate funds; and

(6) For any other reasonable provisions customary, necessary or convenient for the management or regulation of its corporate affairs.

(c) The insurer shall promptly file with the commissioner a copy, certified by the insurer's secretary, of its bylaws and of every modification thereof or addition thereto. The commissioner shall disapprove any bylaw provision deemed by him to be unlawful, unreasonable, inadequate, unfair or detrimental to the proper interests or protection of the insurer's members or any class thereof. The insurer shall not, after receiving written notice of such disapproval and during the existence thereof, effectuate any bylaw provision so disapproved.

§27-27-23. Directors of domestic insurers – Number; election; qualifications.

(a) The affairs of every domestic insurer shall be managed by not less than three directors, and at least one-third of the directors shall be bona fide residents of this state.

(b) Directors must be elected by the members or stockholders of a domestic insurer at the annual meeting of stockholders or members. Directors may be elected for terms of not more than five years each and until their successors are elected and have qualified, and if to be elected for terms of more than one year, the insurer's bylaws shall provide for a staggered-term system under which the terms of a proportionate part of the members of the board of directors will expire on the date of each annual meeting of stockholders or members.

(c) If so provided in the insurer's bylaws, a director of a stock insurer shall be a stockholder thereof and a director of a mutual insurer shall be a policyholder thereof.

§27-27-24. Same – Removal; vacancies.

(a) At a special meeting of stockholders or members called for that purpose, any director of a stock or mutual insurer may be removed from office by an affirmative vote of stockholders or members holding in the aggregate a majority of the voting power of all stockholders or members of an insurer entitled to vote at an election of directors. If the board of directors, or any member thereof, is so removed, new directors may be elected at the same meeting.

(b) Vacancies in the board of directors may be filled by the remaining members of the board, and each person so elected shall be a director until his successor is elected by the stockholders or members at the next annual meeting of stockholders or members or at any special meeting of stockholders or members called for that purpose and held prior thereto.

§27-27-25. Corrupt or dishonest practices in meeting of stockholders or members.

No person shall buy, or sell or barter a vote or proxy relative to any meeting of stockholders or members of an insurer or engage in any corrupt or dishonest practice in, or relative to, the conduct of any such meeting. Violation of this section shall be punishable as provided in section 27-1-12.

§27-27-26. Pecuniary interests of officers, etc., of domestic insurers.

(a) Any officer, or director, or any member of any committee or any employee of a domestic insurer who is charged with the duty of investing or handling the insurer's funds shall not deposit or invest such funds except in the insurer's corporate name; except, that such insurer may for its convenience hold any equity investment in a street name or in the name of a nominee; shall not borrow the funds of such insurer; shall not be pecuniarily interested in any loan, pledge or deposit, security, investment, sale, purchase, exchange, reinsurance or other similar transaction or property of such insurer except as a stockholder or member and shall not take or receive to his own use any fee, brokerage, commission, gift or other consideration for, or on account of, any such transaction made by, or on behalf of, such insurer.

(b) No insurer shall guarantee any financial obligation of any of its officers or directors.

(c) This section shall not prohibit such a director, or officer, or member of a committee or employee from becoming a policyholder of the insurer and enjoying the usual rights so provided for its policyholders, nor shall it prohibit any such officer, director, or member of a committee or employee from participating as beneficiary in any pension trust, deferred compensation plan, profit-sharing plan or stock option plan authorized by the insurer and to which he may be eligible, nor shall it prohibit any director or member of a committee from receiving a reasonable fee for legal services actually rendered to such insurer.

(d) The commissioner may, by regulations from time to time, define and permit additional exceptions to the prohibition contained in subsection (a) of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the insurer, or to a corporation or firm in which a director is interested, for necessary services performed or sales or purchases made to, or for, the insurer in the ordinary course of the insurer's business and in the usual private professional or business capacity of such director or such corporation or firm.

§27-27-27. Exclusive management and production of business contracts by domestic insurers.

(a) No domestic insurer shall hereafter make any contract whereby any person is granted or is to enjoy in fact the management of the insurer to the substantial exclusion of its board of directors or to have the controlling or preemptive right to produce substantially all insurance business for the insurer, unless the contract is filed with, and approved by, the commissioner. The contract shall be deemed approved unless disapproved by the commissioner within 20 days after date of filing, subject to such reasonable extension of time as the commissioner may require by notice given within such 20 days. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor.

(b) Any such contract shall provide that any such manager or producer of its business shall, within 90 days after expiration of each calendar year, furnish the insurer's board of directors a written statement of amounts received under, or on account of, the contract and amounts expended thereunder during such calendar year, including the emoluments received therefrom by the respective directors, officers and other principal management personnel of the manager or producer, and with such classification of items and further detail as the insurer's board of directors may reasonably require.

(c) The commissioner shall disapprove any such contract if he finds that it:

(1) Subjects the insurer to excessive charges;

(2) Is to extend for an unreasonable length of time;

(3) Does not contain fair and adequate standards of performance; or

(4) Contains other inequitable provision, or provisions, which impair the proper interests of stockholders or members of the insurer.

(d) This section does not apply as to contracts entered into prior to January 1, 1972, nor to extensions or amendments to such contracts.

§27-27-28. Notice of change of directors, etc.

An insurer shall promptly give the commissioner written notice of any change of personnel among the directors or principal officers of the insurer.

§27-27-29. Principal place of business and home office of domestic insurers; maintenance of assets in state; removal of records or assets; exceptions.

(a) Every domestic insurer shall have, and maintain, its principal place of business and home office in this state and shall keep therein complete records of its assets, transactions and affairs in accordance with such methods and systems as are customary or suitable as to the kind, or kinds, of insurance transacted.

(b) Every domestic insurer shall have, and maintain, its assets in this state, except as to:

(1) Real property and personal property appurtenant thereto lawfully owned by the insurer and located outside this state; and

(2) Such property of the insurer as may be customary, necessary and convenient to enable and facilitate the operation of its branch offices and "regional home offices" located outside this state as referred to in subsection (d) of this section.

(c) Removal of all, or a material part of, the records or assets of a domestic insurer from this state except pursuant to a plan of merger or consolidation approved by the commissioner under this title, or for such reasonable purposes and periods of time as may be approved by the commissioner in writing in advance of such removal, or concealment of such records or assets, or material part thereof, from the commissioner is prohibited. Any person who removes, or attempts to remove, such records or assets, or such material part thereof, from the home office or other place of business or of safekeeping of the insurer in this state with the intent to remove the same from this state or who conceals or attempts to conceal the same from the commissioner, in violation of this section, shall, upon conviction thereof, be guilty of a felony, punishable by a fine of not more than \$10,000.00, or by imprisonment in the penitentiary for not more than five years or by both such fine and imprisonment in the discretion of the court. Upon any removal or attempted removal of such records or assets or upon retention of such records or assets, or material part thereof, outside this state beyond the period therefor specified in the commissioner's consent under which the records were so removed thereat or upon concealment of, or attempt to conceal, records or assets in violation of this section, the commissioner may institute delinquency proceedings against the insurer pursuant to the provisions of chapter 32 of this title.

(d) This section shall not be deemed to prohibit or prevent an insurer from:

(1) Establishing and maintaining branch offices or "regional home offices" in other states where necessary or convenient for the transaction of its business and keeping therein the detailed records and assets customary and necessary for the servicing of its insurance in force and affairs in the territory served by such an office, as long as such records and assets are made readily available at such office for examination by the commissioner at his request; or

(2) Having, depositing or transmitting funds and assets of the insurer in, or to, jurisdictions outside of this state required by the law of such jurisdiction or as reasonably and customarily required in the regular course of its business, including the retention of personal property or securities in a depository outside the state of Alabama for purposes of safekeeping or for the convenient operation of the insurer.

(e) For good cause shown and with the written permission of the commissioner, a domestic insurer may maintain its executive offices outside the state of Alabama, provided it keeps an office managed by one or more officers of the insurer and a complete duplicate set of records in Alabama and further agrees to make all records at the executive offices outside Alabama available to the commissioner of Alabama upon reasonable notice by him.

(f) This section shall not apply to those actions taken by insurance companies prior to January 1, 1972, but only applies to future actions of domestic insurance companies.

(g) Notwithstanding any other provision of this section, any company may evidence ownership of its assets by use of a clearing corporation or book-entry deposit system.

§27-27-30. Voucher or other document for disbursements.

(a) No insurer shall make any disbursement of \$25.00 or more unless evidenced by a voucher or other document correctly describing the consideration for the payment and support by a check or receipt endorsed or signed by, or on behalf of, the person receiving the money.

(b) If the disbursement is for services and reimbursement, the voucher or other document, or some other writing referred to therein, shall describe the services and itemize the expenditures.

(c) If the disbursement is in connection with any matter pending before any legislature or public body or before any public official, the voucher or other document shall also correctly describe the nature of the matter and of the insurer's interest therein.

§27-27-31. Contingent liability of members of domestic mutual insurers -- Generally.

(a) Each member of a domestic mutual insurer shall, except as otherwise provided in this chapter with respect to nonassessable policies, have a contingent liability, pro rata and not one for another, for the discharge of its obligations, which contingent liability shall be expressed in the policy and be in such maximum amount as is specified in the insurer's articles of incorporation.

(b) Termination of the policy of any such member shall not relieve the member of contingent liability for his proportion, if any, of the obligations of the insurer which accrued while the policy was in force.

(c) Unrealized contingent liability of members does not constitute an asset of the insurer in any determination of its financial condition.

§27-27-32. Same -- Levy of assessments.

(a) If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it under this title for authority to transact the kinds of insurance being transacted and the deficiency is not cured from other sources, its directors shall levy an assessment only upon its members who held policies providing for contingent liability at any time within the 12 months preceding the date notice of such assessment was mailed to them, and such members shall be liable to the insurer for the amount so assessed.

(b) The assessment shall be for such an amount as is required to cure such deficiency and to provide a reasonable amount of working funds above such minimum amount of surplus, but such working funds so provided shall not exceed five percent of the insurer's liabilities as of the date as of which the amount of such deficiency was determined.

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(c) In levying an assessment on a policy providing for contingent liability, the assessment shall be computed on a basis of premium earned on such policy.

(d) No member shall have an offset against any assessment for which he is liable on account of any claim for unearned premium or loss payable.

(e) As to life insurance, any part of such an assessment upon a member which remains unpaid following notice of assessment, demand for payment and lapse of a reasonable waiting period as specified in such notice may, if approved by the commissioner as being in the best interests of the insurer and its members, be secured by placing a lien upon the cash surrender values and accumulated dividends held by the insurer to the credit of such member.

§27-27-33. Collection of assessments by insurers.

(a) Any assessment made by an insurer under section 27-27-32 or 27-27-42 is prima facie correct. The amount of such assessment to be paid by each member as determined by the insurer is likewise prima facie correct.

(b) The insurer shall notify each member of the amount of the assessment to be paid by written notice mailed to the address of the member last of record with the insurer. Failure of the member to receive the notice so mailed, within the time specified therein for the payment of the assessment or at all, shall be no defense in any action to collect the assessment.

(c) If a member fails to pay the assessment within the period specified in the notice, which period shall not be less than 20 days after mailing, the insurer may institute an action to collect the same.

§27-27-34. Nonassessable policies in mutual insurers – Generally.

(a) While possessing surplus funds in amount not less than the paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance, a domestic mutual insurer may, upon receipt of the commissioner's order so authorizing, extinguish the contingent liability of its members as to all its policies in force and may omit provisions imposing contingent liability in all its policies currently issued.

(b) A foreign or alien mutual insurer may issue nonassessable policies to its members in this state pursuant to its articles of incorporation and the laws of its domicile.

§27-27-35. Same – Revocation of domestic insurers authority to issue.

The commissioner shall revoke the authority of a domestic mutual insurer to issue policies without contingent liability if at any time the insurer's assets are less than the sum of its liabilities and the surplus required for such authority or if the insurer, by resolution of its board of directors approved by a majority of its members, requests that the authority be revoked. During the absence of such authority, the insurer shall not issue any policy without providing therein for the contingent liability of the policyholder nor renew any policy which is renewable at the option of the insurer without endorsing the same to provide for such contingent liability.

§27-27-36. Issuance of participating or nonparticipating policies by domestic insurers.

Unless prohibited by its articles of incorporation, a domestic stock or domestic mutual insurer may issue any, or all, of its policies with, or without, participation in profits, savings or unabsorbed portions of premiums, may classify policies issued on a participating and nonparticipating basis and may determine the right to participate and the extent of participation of any class, or classes, of policies. Any such classification or determination shall be reasonable and shall not unfairly discriminate as between policyholders within the same such classifications. A life insurer may issue both participating and nonparticipating policies only if the right or absence of right to participate is reasonably related to the premium charged.

§27-27-37. Dividends -- Domestic stock insurers.

(a) A domestic stock insurer shall not pay any cash dividend to stockholders except out of that part of its available surplus funds which is derived from realized net profits on its business.

(b) A stock dividend may be paid out of any available surplus funds in excess of the aggregate amount of surplus loaned to the insurer under section 27-27-40.

(c) A dividend otherwise proper may be payable out of the insurer's surplus even though its total surplus is then less than the aggregate of its past contributed surplus resulting from issuance of its capital stock at a price in excess of the par value thereof.

§27-27-38. Same -- Domestic mutual insurers.

(a) The directors of a domestic mutual insurer may, from time to time, apportion and pay or credit to its members dividends only out of that part of its surplus funds which represents net realized savings and net realized earnings in excess of the surplus required by law to be maintained.

(b) A dividend otherwise proper may be payable out of such savings and earnings even though the insurer's total surplus is then less than the aggregate of its contributed surplus.

§27-27-39. Same -- Liability for illegal dividends by domestic insurers.

(a) Any director of a domestic stock or mutual insurer who knowingly votes for, or concurs in, declaration or payment of a dividend to stockholders or members except as authorized in sections 27-27-37 or 27-27-38 shall, upon conviction thereof, be guilty of a misdemeanor and shall be jointly and severally liable, together with other such directors likewise voting for or concurring, for any loss thereby sustained by the insurer.

(b) Any stockholder receiving such an illegal dividend shall be liable in the amount thereof to the insurer.

(c) The commissioner may revoke or suspend the certificate of authority of an insurer which has declared or paid such an illegal dividend.

§27-27-40. Loans by domestic insurers.

(a) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest at a reasonable rate per annum, which interest shall, or shall not, constitute a liability of the insurer as to its funds other than such excess of surplus, as stipulated in the agreement. No commission or promotion expense shall be paid in connection with any such loan.

(b) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement or be the basis of any setoff, but, until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(c) Any such loan shall be subject to the commissioner's approval. The insurer shall, in advance of the loan, file with the commissioner a statement of the purpose of the loan and a copy of the proposed loan agreement. The loan and agreement shall be deemed approved unless, within 15 days after date of such filing, the insurer is notified of the commissioner's disapproval and the reasons therefor. The commissioner shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties and to other similar lenders, if any, to the insurer or that the information so filed by the insurer is inadequate.

(d) Any such loan, or substantial portion thereof, shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan shall be made, unless in advance approved by the commissioner.

(e) This section shall not apply to any loan other than one obtained upon a written agreement that such loan is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement.

(f) The value of the surplus debenture issued under this section shall not be considered as the deciding authority for valuing the asset received for the above note, but shall only be taken into account with all other factors in determining admitted value.

§27-27-41. Deficiencies in stock insurer's capital or assets of mutual insurers -- Generally.

(a) If a stock insurer's capital, as represented by the aggregated par value of its outstanding capital stock, becomes impaired or the assets of a mutual insurer are less than its liabilities and the minimum amount of surplus required to

be maintained by it under sections 27-27-15 or 27-27-20 for authority to transact the kinds of insurance being transacted, the commissioner shall, at once, determine the amount of deficiency and serve notice upon the insurer to make good the deficiency within 60 days after service of such notice.

(b) The deficiency may be made good in cash or in assets eligible for the investment of the insurer's funds, or, if a stock insurer, by reduction of the insurer's capital to an amount not below the minimum required for the kinds of insurance thereafter to be transacted or, if a mutual insurer, by amendment of its certificate of authority to cover only such kind or kinds of insurance thereafter for which the insurer has sufficient surplus under this title.

(c) If the deficiency is not made good and proof thereof filed with the commissioner within such 60-day period, the insurer shall be deemed insolvent and the commissioner shall institute delinquency proceedings against it under chapter 32 of this title; except, that if such deficiency exists because of increased loss reserves required by the commissioner or because of disallowance by the commissioner of certain assets or reduction of the value at which carried in the insurer's accounts, the commissioner may, in his discretion and upon application and good cause shown, extend, for not more than an additional 60 days, the period within which such deficiency may be so made good and such proof thereof so filed.

§27-27-42. Same -- Curing of deficiency.

Any insurer receiving the commissioner's notice mentioned in section 27-27-41:

(1) If a stock insurer and if its articles of incorporation and laws of this state so permit, by resolution of its board of directors and subject to any limitations upon assessment contained in its articles of incorporation, may assess its stockholders for amounts necessary to cure the deficiency and provide the insurer with a reasonable amount of surplus in addition. If any stockholder fails to pay a lawful assessment after notice given to him in person or by advertisement in such time and manner as approved by the commissioner, the insurer may require the return of the original certificate of stock held by the stockholder and, in cancellation and in lieu thereof, issue a new certificate for such number of shares as the stockholder may then be entitled to, upon the basis of the stockholder's proportionate interest in the amount of the insurer's capital stock, as determined by the commissioner to be remaining at the time of determination of amount of impairment under section 27-27-41, after deducting from such proportionate interest the amount of such unpaid assessment. The insurer may pay for or issue fractional shares under this subdivision;

(2) If a mutual insurer, shall levy such an assessment upon members as is provided under section 27-27-32; and

(3) Neither this section nor section 27-27-41 shall be deemed to prohibit the insurer from curing any such deficiency through any lawful means other than those referred to in such sections.

§27-27-43. Mutualization of stock insurers.

(a) A stock insurer other than a title insurer may become a mutual insurer under such plan and procedure as may be approved by the commissioner after a hearing thereon.

(b) The commissioner shall not approve any such plan, procedure or mutualization unless:

(1) It is equitable to stockholders and policyholders;

(2) It is subject to approval by the holders of not less than three fourths of the insurer's outstanding capital stock having voting rights and by not less than three fourths of the insurer's policyholders who vote on such plan in person, by proxy or by mail pursuant to such notice and procedure as may be approved by the commissioner;

(3) If a life insurer, the right to vote thereon is limited to holders of policies other than term or group policies and whose policies have been in force for more than one year;

(4) Mutualization will result in retirement of shares of the insurer's capital stock at a reasonable price as specified in the plan;

(5) The plan provides for the purchase of the shares of any nonconsenting stockholder in the same manner and subject to the same applicable conditions as provided by the general corporation laws of the state as to rights of nonconsenting stockholders with respect to consolidation or merger of private corporations;

(6) The plan provides for definite conditions to be fulfilled by a designated early date upon which such mutualization will be deemed effective; and

(7) The mutualization leaves the insurer with surplus funds reasonably adequate for the security of its policyholders and to enable it to continue successfully in business in the states in which it is then authorized to transact insurance and for the kinds of insurance included in its certificates of authority in such states.

(c) This section shall not apply to mutualization under order of court pursuant to rehabilitation or reorganization of an insurer under chapter 32 of this title.

§27-27-44. Conversion of mutual insurer into stock insurer.

(a) A mutual insurer may become a stock insurer under such plan and procedure as may be approved by the commissioner after a hearing thereon.

(b) The commissioner shall not approve any such plan or procedure unless:

(1) It is equitable to the insurer's members;

(2) It is subject to approval by vote of not less than three fourths of the insurer's current members voting thereon in person, by proxy or by mail at a meeting of members called for the purpose pursuant to such reasonable notice

and procedure as may be approved by the commissioner; if a life insurer, right to vote may be limited to members who hold policies other than term or group policies and whose policies have been in force for not less than one year;

(3) The equity of each policyholder in the insurer is determinable under a fair formula approved by the commissioner, which such equity shall be based upon not less than the insurer's entire surplus, after deducting contributed or borrowed surplus funds, plus a reasonable present equity in its reserves and in all nonadmitted assets;

(4) The policyholders entitled to participate in the purchase of stock or distribution of assets shall include all current policyholders and all existing persons who had been policyholders of the insurer within three years prior to the date such plan was submitted to the commissioner;

(5) The plan gives to each policyholder of the insurer, as specified in subdivision (b) (4) of this section a preemptive right to acquire his proportionate part of all of the proposed capital stock of the insurer, within a designated reasonable period, and to apply upon the purchase thereof the amount of his equity in the insurer as determined under subdivision (b) (3) of this section;

(6) Shares are so offered to policyholders at a price not greater than to be thereafter offered to others;

(7) The plan provides for payment to each policyholder not electing to apply his equity in the insurer for, or upon, the purchase price of stock to which preemptively entitled of cash in the amount of his equity not so used for the purchase of stock, and which cash payment, together with stock so purchased, if any, shall constitute full payment and discharge of the policyholder's equity as an owner of such mutual insurer; and

(8) The plan, when completed, would provide for the converted insurer paid-in capital stock in an amount not less than the minimum paid-in capital required of a domestic stock insurer transacting like kinds of insurance, together with surplus funds in amount not less than one half of such required capital.

§27-27-45. Merger and consolidations -- Domestic stock insurers.

(a) A domestic stock insurer may merge or consolidate with one or more domestic or foreign stock insurers by complying with the applicable provisions of the statutes of this state governing the merger or consolidation of stock corporations formed for profit, but subject to subsections (b) and (c) of this section.

(b) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the commissioner and approved in writing by him after a hearing thereon. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(1) Is contrary to law;

(2) Inequitable to the stockholders of any domestic insurer involved; or

(3) Would substantially reduce the security of, and service to be rendered to, policyholders of the domestic insurer in this state or elsewhere.

(c) No director, officer, agent or employee of any insurer party to such merger or consolidation shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in such plan or agreement.

(d) If the commissioner does not approve any such plan or agreement, he shall so notify the insurer in writing, specifying his reasons therefor.

(e) If any domestic insurer involved in the proposed merger or consolidation is authorized to transact insurance also in other states, the commissioner may request the insurance commissioner, director of insurance, superintendent of insurance or other similar public insurance supervisory official of the two other such states in which such insurer has in force the larger amounts of insurance to participate in the hearing provided for under subsection (b) of this section, with full right to examine all witnesses and evidence and to offer to the commissioner such pertinent information and suggestions as they may deem proper.

(f) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer, issued by the insurer for the purpose, for such controlling stock of the second insurer is deemed to be a plan or proposal of merger of the second insurer into the first insurer for the purposes of this section and is subject to the applicable provisions of this section.

§27-27-46. Same – Domestic mutual insurers.

(a) A domestic mutual insurer may merge or consolidate with another insurer under the applicable procedures prescribed by the statutes of this state applying to corporations formed for profit, except as provided in this section.

(b) The plan and agreement for merger or consolidation shall be submitted to, and approved by, at least two thirds of the members of each mutual insurer voting thereon at meetings called for the purpose pursuant to such reasonable notice and procedure as has been approved by the commissioner. If a life insurer, right to vote may be limited to members whose policies are other than term and group policies and have been in effect for more than one year.

(c) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the commissioner and approved by him in writing after a hearing thereon. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(1) Inequitable to the policyholders of any domestic insurer involved; or

(2) Would substantially reduce the security of, and service to be rendered to, policyholders of the domestic insurer in this state and elsewhere.

(d) If the commissioner does not approve such plan or agreement, he shall so notify the insurers in writing specifying his reasons therefor.

(e) Subsection (e) of section 27-27-45 shall also apply as to mergers and consolidations of such mutual insurers.

§27-27-47. Bulk reinsurance -- Domestic stock insurers.

(a) A domestic stock insurer may reinsure all, or substantially all, of its insurance in force or a major class thereof with another insurer by an agreement of bulk reinsurance, but no such agreement shall become effective unless filed with the commissioner and approved by him in writing after a hearing thereon.

(b) The commissioner shall approve such agreement within a reasonable time after such filing unless he finds that it is inequitable to the stockholders of the domestic insurer or would substantially reduce the protection or service to its policyholders. If the commissioner does not approve the agreement, he shall so notify the insurer in writing, specifying his reasons therefor. If the commissioner does not approve or disapprove such agreement and notify the insurer thereof in writing within 30 days after such filing, it shall conclusively be presumed that the agreement is approved by the commissioner.

§27-27-48. Same -- Domestic mutual insurers.

(a) A domestic mutual insurer may reinsure all, or substantially all, its business in force or all, or substantially all, of a major class thereof with another insurer, stock or mutual, by an agreement of bulk reinsurance after compliance with this section. No such agreement shall become effective unless filed with the commissioner and approved by him in writing after a hearing thereon.

(b) The commissioner shall approve such agreement within a reasonable time after filing if he finds it to be fair and equitable to each domestic insurer involved, and that such reinsurance if effectuated would not substantially reduce the protection or service to its policyholders. If the commissioner does not so approve, he shall so notify each insurer involved in writing, specifying his reasons therefor.

(c) The plan and agreement for such reinsurance must be approved by vote of not less than two thirds of each domestic mutual insurer's members voting thereon at meetings of members called for the purpose, pursuant to such reasonable notice and procedure as the commissioner may approve. If a life insurer, right to vote may be limited to members whose policies are other than term or group policies and have been in effect for more than one year.

(d) If for reinsurance of a mutual insurer in a stock insurer, the agreement must provide for payment in cash to each member of the insurer entitled thereto, as upon conversion of such insurer pursuant to section 27-27-44, of his equity in the business reinsured as determined under a fair formula approved by the commissioner, which equity shall be based upon such member's equity in the reserves, assets, whether or not "admitted" assets, and surplus, if any, of the mutual insurer to be taken over by the stock insurer.

§27-27-49. Distribution of assets upon liquidation of domestic mutual insurer.

(a) Upon any liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness, policy obligations, repayment of contributed or borrowed surplus, if any, and expenses of administration shall be distributed to existing persons who were its members at any time within 36 months next preceding the date such liquidation was authorized or ordered or date of last termination of the insurer's certificate of authority, whichever date is the earlier; except, that if the commissioner has reason to believe that those in charge of the management of the insurer have caused or encouraged the reduction of the number of members of the insurer in anticipation of liquidation and for the purpose of reducing thereby the number of persons who may be entitled to share in distribution of the insurer's assets, he may enlarge the 36-month qualification period provided for in this subsection by such additional period as he may deem to be reasonable.

(b) The distributive share of each such member shall be in the proportion that the aggregate premiums earned by the insurer on the policies of the member during the combined periods of his membership bear to the aggregate of all premiums so earned on the policies of all such members. The insurer may, and if a life insurer shall, make a reasonable classification of its policies so held by such members and a formula based upon such classification for determining the equitable distributive share of each such member. Such classification and formula shall be subject to the approval of the commissioner.

§27-27-50. Extinguishment and nullification of domestic insurers' corporate charter.

(a) The corporate charter of any corporation formed under the laws of this state more than three years prior to January 1, 1972, for the purpose of becoming an insurer and which corporation within such three-year period has not actively engaged in business as a domestic insurer under a certificate of authority issued to it by the commissioner under laws then in force is hereby extinguished and nullified.

(b) The corporate charter of any other corporation formed under the laws of this state for the purpose of becoming an insurer and which corporation during any period of 36 consecutive months after January 1, 1972, is not actively engaged in business as a domestic insurer under a certificate of authority issued to it by the commissioner under laws currently in force is automatically hereby extinguished and nullified at the expiration of such 36-month period.

(c) The period during which any such corporation referred to in subsection (b) of this section is the subject of delinquency proceedings under chapter 32 of this title shall not be counted as part of any such 36-month period.

(d) Upon merger or consolidation of a domestic insurer with another insurer under this chapter, the corporate charter of such merged or consolidated domestic insurer shall thereby automatically be extinguished and nullified.

§27-27-51. Rules and regulations as to securities of domestic stock insurers.

The commissioner shall have the power, and it shall be his duty, to prescribe, publish and disseminate to all domestic stock insurance companies uniform written rules and regulations of proxies, consents and authorizations, including the solicitation thereof, and information necessary, or appropriate to, such solicitation or to the authorization sought thereby, in respect of securities issued by such domestic stock insurance companies; and it shall be unlawful for any person to solicit or to permit the use of his name to solicit any proxy, consent or authorization in respect of any such securities in contravention of such rules and regulations as may be prescribed, published and disseminated pursuant to this section.

§27-27-52. Insider trading of domestic stock insurer equity securities -- Short title.

Sections 27-27-52 through 27-27-60 shall be known as the "Insider Trading of Domestic Stock Insurer Equity Securities Law."

§27-27-53. Same -- Ownership statements.

Every person who is, directly or indirectly, the beneficial owner of more than 10 percent of any class of any equity security of a domestic stock insurance company or who is a director or an officer of such company shall file in the office of the commissioner of insurance of Alabama on or before January 31, 1972, or within 10 days after he becomes such beneficial owner, director or officer, a statement, in such form as the commissioner may prescribe, of the amount of all equity securities of such company of which he is the beneficial owner and, within 10 days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the commissioner a statement, in such form as the commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

§27-27-54. Same -- Recovery of certain profits by company.

For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of his relationship to such company, any profit realized by him from any purchase and sale or any sale and purchase, of any equity security of such company within any period of less than six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to, and be recoverable by, the company, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding six months. An action to recover such profit may be instituted in any court of competent jurisdiction by the company or by the owner of any security of the company in the name, and in behalf, of the company if the company shall fail or refuse to bring such action within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such action shall be brought more than two years after the date such profit was realized. This section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale or the sale and purchase of the security involved or any transaction or transactions which the commissioner, by rules and regulations, may exempt as not comprehended within the purpose of this section.

§27-27-55. Same -- Unlawful sales.

It shall be unlawful for any such beneficial owner, director or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or his principal:

(1) Does not own the security sold; or

(2) If owning the security, does not deliver it against such sale within 20 days thereafter or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this section if he proves that, notwithstanding the exercise of good faith, he was unable to make such delivery or deposit within such time or that to do so would cause undue inconvenience or expense.

§27-27-56. Same -- Exemptions from sections 27-27-54 and 27-27-55; prescription of terms and conditions thereon.

The provisions of section 27-27-54 shall not apply to any purchase and sale or sale and purchase and the provisions of section 27-27-55 shall not apply to any sale of an equity security of a domestic stock insurance company not then, or theretofore, held by him in an investment account by a dealer in the ordinary course of his business and incident to the establishment, or maintenance by him, of a primary or secondary market, otherwise than on an exchange as defined in the Securities Exchange Act of 1934, for such security. The commissioner may, by such rules and regulations as he deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

§27-27-57. Same -- Applicability of sections 27-27-53 through 27-27-55.

The provisions of sections 27-27-53 through 27-27-55 shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the commissioner may adopt in order to carry out the purposes of this chapter.

§27-27-58. Same -- Equity securities -- Defined.

The term "equity security," when used in this chapter, means any stock or similar security or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security, or any such warrant or right or any other security which the commissioner shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security.

§27-27-59. Same -- Same -- Applicability of sections 27-27-53 through 27-27-55.

The provisions of sections 27-27-53 through 27-27-55 shall not apply to equity securities of a domestic stock insurance company if:

(1) Such securities shall be registered, or shall be required to be registered, pursuant to section 12 of the Securities Exchange Act of 1934, as amended; or

(2) Such domestic stock insurance company shall not have any class of its equity securities held of record by 100 or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of sections 27-27-53 through 27-27-55 except for the provisions of this subdivision.

§27-27-60. Same -- Rules and regulations.

The commissioner shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in him by sections 27-27-53 through 27-27-59 and may for such purpose classify domestic stock insurance companies, securities and other persons or matters within his jurisdiction. No provision of sections 27-27-53 through 27-27-55 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the commissioner, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

§27-27-61. Applicability of corporation statutes to domestic insurers.

The applicable statutes of this state relating to the powers and procedures of domestic private corporations formed for profit shall apply to domestic stock insurers and to domestic mutual insurers, except where in conflict with the express provisions of this title and the reasonable implications of such provisions.

§27-28-1. Plan for exchange of stock, etc., between domestic stock insurer and holding company -- Authority.

A domestic stock insurance company, hereinafter referred to in this chapter as "domestic company," may cause a corporation to be organized under the laws of this state or any other state of the United States of America to act as a holding company, hereinafter referred to in this chapter as "holding company," which may, or may not, be an insurance corporation, and the domestic company and holding company may adopt a plan for an exchange of stock or other securities in which stockholders of the domestic company exchange their stock for shares of stock or other securities issued by the holding company pursuant to the provisions of section 27-28-2. Such plan of exchange may provide for a direct exchange of stock or other securities between the stockholders of the domestic company and the holding company or may include provision for the merger of a wholly owned subsidiary of the holding company into the domestic company, in which stockholders of the domestic company receive shares of voting stock of the holding company in exchange for shares of stock of the domestic company and the holding company owns thereafter all of the outstanding stock of the domestic company.

§27-28-2. Same -- Procedure for exchange.

A plan of exchange shall be adopted and become effective in the following manner:

(1) APPROVAL OF THE BOARDS OF DIRECTORS. -- The boards of directors of each corporate party to the plan of exchange by resolution shall adopt the plan of exchange which shall set forth the terms and conditions of the exchange and the mode of carrying the same into effect and such other provisions with respect to the exchange as may be deemed necessary or desirable.

(2) APPROVAL OF COMMISSIONER -- Every plan of exchange, before being submitted to vote of the stockholders pursuant to subdivision (3) of this section, shall be submitted for approval to the commissioner in accordance with the following procedure:

a. After the approval required by subdivision (1) of this section is obtained, the domestic company shall submit to the commissioner three copies of the plan of exchange and any other information which the commissioner may require with respect to such plan;

b. Upon the submission of the plan, the commissioner shall schedule a public hearing to determine if the terms and conditions of the plan of exchange are fair, to be held within 30 days after such submission. Each corporation which is a party to the plan shall give notice of the time and place of such hearing to each stockholder of record of the corporation, as of a date 15 days prior to the date of the hearing, by letter mailed not later than 10 days prior to the hearing. Each corporation which is a party to the plan shall further cause notice of the hearing to be published in a newspaper of general circulation in the city wherein is located the principal place of business of the corporation, once a week for two consecutive weeks, the last publication of such notice to be not more than two weeks prior to the hearing date. Each stockholder of any corporation which is a party to the plan and each policyholder of the domestic company or any other domestic insurance company which is a party to the plan shall be entitled to appear and be heard in said hearing and said notices shall so state; and

c. After conclusion of the hearing and not later than 60 days after submission of the plan, the commissioner shall issue a written order approving the terms and conditions of the plan of exchange as delivered to him and such modifications therein as the board of directors of each corporation which is a party to the plan shall approve, only if he finds:

1. That the terms and conditions of the plan, including modifications, if any, if effected, will not tend adversely to affect the financial stability or management of the domestic company or any other domestic insurance company which is a party to the plan;

2. That the interests of the policyholders of the domestic company and any other domestic insurance company which is a party to the plan are protected; and

3. That the terms and conditions of the plan and the proposed issuance and exchange are fair to all stockholders to whom it is proposed to issue stock or other securities of the holding company by the terms of the plan.

If the commissioner fails to approve the plan, he shall state his reasons therefor in writing. Any party in interest may appeal from the ruling of the commissioner to the circuit court in the circuit where the insurance company maintains its home office by giving notice of such appeal to the commissioner within two weeks after such ruling. All expenses of the commissioner relating to the hearing shall be paid by the domestic company.

(3) APPROVAL OF STOCKHOLDERS. -- The plan of exchange as approved by the commissioner pursuant to the provisions of subdivision (2) of this section shall then be submitted to a vote of the stockholders of the domestic company at an annual or special meeting of the stockholders. Written or printed notice shall be given to each stockholder of record entitled to vote at such meeting, not less than 20 days before such meeting, in the manner provided in the Alabama Business Corporation Act for the giving of notice of meetings of stockholders, and shall state the purpose of the meeting, whether the meeting be an annual or a special meeting. A copy or a summary of the plan of exchange shall be included in or enclosed with such notice. At such meeting, a vote of the stockholders shall be taken on the proposed plan of exchange. Each outstanding share of the domestic company shall be entitled to vote on the proposed plan of exchange, whether or not such share has voting rights under the provisions of the certificate of incorporation of the domestic company. The plan shall be approved upon receiving the affirmative vote of the holders of at least two thirds of the outstanding shares of the domestic company, unless any class of shares of the domestic company is entitled to vote as a class therein, in which event, the plan of exchange shall be approved upon receiving the affirmative vote of the holders of at least two thirds of the outstanding shares for each class of shares entitled to vote as a class thereon and of the total outstanding shares. Any class of shares of the domestic company shall be entitled to vote as a class if the plan of exchange contains any provision which, if contained in a proposed amendment to the certificate of incorporation, would entitle such class of shares to vote as a class. After such approval of the plan of exchange, and at any time prior to the filing of the certificate setting forth the plan of exchange pursuant to this subdivision, the plan of exchange may be abandoned pursuant to a provision for such abandonment, if any, contained in the plan of exchange. Stockholder approval by the stockholders of any other corporate party to the plan of exchange shall be governed by the laws otherwise applicable to the transactions involved in the plan.

(4) RIGHTS OF DISSENTING STOCKHOLDERS. -- If any stockholder of the domestic company shall file with such corporation prior to, or at the meeting of, stockholders at which the plan of exchange is submitted to a vote a written objection to such plan and shall not vote in favor thereof and such stockholder, within 10 days after the date on which the vote was taken, shall make written demand on the domestic company for payment of the fair value of his shares as of the day prior to the date on which the vote was taken approving the plan, then, if the plan is effected, the domestic company or surviving corporation, if a merger is included in the plan, shall pay to such stockholder, upon surrender of his certificate, or certificates, representing such shares, the fair value thereof. Such demand shall state the number and class of the shares owned by such dissenting stockholder. Any stockholder failing to make demand within the 10-day period shall be bound by the terms of the plan of exchange.

Within 10 days after the plan is effected, the domestic company or surviving corporation, as the case may be, shall give notice thereof to each dissenting stockholder who has made demand as provided for in this subdivision the payment of the fair value of his shares.

If within 30 days after the date on which such plan was effected the value of such shares is agreed upon between the dissenting stockholder and the domestic company or surviving corporation, payment therefor shall be made within 90 days after the date on which such plan was effected from the fund established pursuant to the provisions of subdivision (5) of this section or, if the fund is not sufficient for such payment, from other cash assets, upon the surrender of the dissenting stockholder's certificate, or certificates, representing such shares. Upon payment of the agreed value, the dissenting stockholder shall cease to have any interest in such shares or in the corporation.

If within such period of 30 days the stockholder and the domestic company or the surviving corporation do not so agree, then the dissenting stockholder may, within 60 days after the expiration of the 30-day period, file a petition in any circuit court, asking for a finding and determination of the fair value of such shares, and shall be entitled to judgment against the domestic company or surviving corporation for the amount of such fair value as of the day prior to the date on which such vote was taken approving such plans, together with interest thereon to the date of such judgment. The judgment shall be payable only upon, and simultaneously with, the surrender to the domestic company or surviving corporation of the certificate or certificates representing such shares and shall be payable from the fund established pursuant to the provisions of subdivision (5) of this section or, if the fund is not sufficient for such payment, from other cash assets. Upon payment of the judgment, the dissenting stockholder shall cease to have any interest in such shares, or in the domestic company or surviving corporation. Unless the dissenting stockholder shall file such petition within the time limited in this subdivision, such stockholder and all persons claiming under him shall be bound by the terms of the plan of exchange.

Shares acquired by the domestic company or the surviving corporation pursuant to the payment of the agreed value thereof or of the judgment entered therefor, as in this subdivision provided, shall be treasury shares and may be held and disposed of by such corporation as in the case of other treasury shares.

A nominee of a corporate fiduciary holding shares of stock for more than one fiduciary account may dissent as to less than all of the shares registered in his name. In that event, his rights shall be determined as if the shares as to which he has dissented and his other shares were registered in the names of different stockholders.

The dissenting rights of stockholders of any other corporate party to the plan of exchange shall be governed by the laws otherwise applicable to the transactions involved in the plan.

(5) FILING PLAN OF EXCHANGE. -- After the date of the meeting of stockholders of the domestic company at which the plan of exchange was submitted to such stockholders, a certificate setting forth:

a. The plan of exchange;

b. The vote by which such plan was adopted by the stockholders of the domestic company and any other corporate party to the plan whose stockholders approved the plan under the laws otherwise applicable;

c. The number of shares of the domestic company for which a dissenting right has been preserved and for which no payment has been made pursuant to subdivision (4) of this section; or

d. That the plan of exchange has been abandoned shall be executed on behalf of the domestic company by its president, or a vice-president, and attested by its secretary, or an assistant secretary, under the corporate seal, and shall then be presented in triplicate to the commissioner. If the certificate indicates that the plan of exchange has been approved by stockholders as required by subdivision (3) of this section and that the facts otherwise conform to the law, he shall require the domestic company, prior to the time the plan becomes effective, to create a fund in cash distinct from its other assets to provide for the payment for all shares with respect to which a dissenting right has been preserved and for which no payment has been made pursuant to subdivision (4) of this section. The amount of said fund shall not limit the amount to be paid to dissenting stockholders under the provisions of subdivision (4) of this section, nor shall the amount of the fund be used as evidence in any proceeding to establish the fair value of shares for which dissenting rights are asserted. Thereafter, upon the creation of such a fund, the commissioner shall endorse his approval on the certificate and the same shall then be filed in the office of the secretary of state. Upon such filing of such certificate, the plan of exchange shall become effective unless a later date and time is specified in the plan of exchange, in which event, the plan of exchange and issuance and exchange provided for therein shall become effective upon such later date and time.

(6) EFFECT OF EXCHANGE. -- Upon the plan of exchange becoming effective, the exchange, or exchanges, provided for therein shall be deemed to have been consummated, each stockholder of the domestic company shall cease to be a stockholder of such company and the ownership of all shares of the issued and outstanding stock of the domestic company shall vest in the holding company automatically without any physical transfer or deposit of certificates representing such shares.

Certificates representing shares of the domestic company prior to the plan of exchange becoming effective shall after the plan of exchange becomes effective automatically represent shares of the issued and outstanding capital stock or other securities issued by the holding company, provided that the plan of exchange:

a. Shall specify that all certificates representing shares of stock of the domestic company may, after the plan of exchange becomes effective, be exchanged by any stockholder for shares of stock or other securities issued by the holding company; and

b. May require that all certificates representing shares of stock of the domestic company shall, after the plan of exchange becomes effective, represent only the right to receive shares of stock or other securities issued by the holding company as shall be specified in the plan of exchange.

§27-28-3. Same -- Fees, etc., for promotion of plan.

No director, officer, agent or employee of any corporation which is a party to the plan of exchange, except as is expressly provided by the plan filed with the commissioner, shall receive any fee, commission, other compensation or valuable consideration whatever for in any manner aiding, promoting or assisting in the promotion of the plan of exchange.

§27-28-4. Effect of chapter on powers of commissioner and authority to engage in insurance business.

Nothing contained in this chapter shall affect the power of the commissioner to regulate, supervise and control insurance companies pursuant to the laws of the state of Alabama governing such companies, nor shall anything in this chapter be construed to authorize any insurance company to engage in any kind, or kinds, of insurance business not authorized by its charter or to authorize any holding company which is not an insurance corporation to engage directly in the business of insurance. Subsequent to the effective date of any plan of exchange, the commissioner, having due regard to the findings stated in subdivision (2) of section 27-28-2, shall have authority to require that the affairs of the domestic company be conducted in such manner as to assure the continued safe conduct and transaction of the business of insurance of the domestic company.

§27-28-5. Applicability of Alabama Business Corporation Act.

This chapter shall be supplemental to, and construed with, the provisions of the Alabama Business Corporation Act, as amended, but in the event there exists any conflict between the provisions of this chapter and the provisions of that act, the provisions of this chapter shall control.

§27-29-1. Definitions.

For purposes of this chapter, unless otherwise stated, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **AFFILIATE.** Such term shall include an "affiliate" of, or person "affiliated" with, a specific person, and shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) **COMMISSIONER.** The commissioner of insurance, his deputies or the insurance department as appropriate.

(3) **CONTROL.** Such term shall include "controlling," "controlled by" or "under common control with" and shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly owns, controls, holds with the power to vote or holds proxies representing five percent or more of the voting securities of any other person. Any person who, on

April 15, 1982, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing five percent or more, but not as much as 15 percent, of the voting securities of any person shall not be presumed to be in control of such person but shall not acquire, otherwise than by stock dividends, additional voting securities of such other person without being presumed to have acquired control and without complying with the provisions of this chapter relating to acquisition of control. This presumption may be rebutted by a showing made in the manner provided by subsection (i) of section 27-29-4 that control does not exist in fact. Such "control" as used in this section shall not be deemed to exist where proxies have been obtained by management of such insurer solely in connection with voting at an annual or other regular meeting of the shareholders of such insurer. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific finding of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(4) **INSURANCE HOLDING COMPANY SYSTEM.** A system which consists of two or more affiliated persons, one or more of which is an insurer.

(5) **INSURER.** An insurance company as set forth in section 27-1-2, except that it shall not include:

a. Agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia or a state or political subdivision of a state;

b. Fraternal benefits societies; or

c. Nonprofit medical and hospital service associations.

Notwithstanding the foregoing, for purposes of section 27-29-3, a domestic insurer shall include any other person controlling a domestic insurer unless such other person is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(6) **PERSON.** An individual, a corporation, a partnership, a limited partnership, an association, a joint-stock company, a trust, an unincorporated organization or any similar entity or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function.

(7) **SECURITYHOLDER.** One who owns any security of such person, including common stock, preferred stock, debt obligations and other security convertible into, or evidencing, the right to acquire any of the foregoing.

(8) **SUBSIDIARY.** An affiliate controlled by such person, directly or indirectly, through one or more intermediaries.

(9) **VOTING SECURITY.** Such term shall include any security convertible into, or evidencing, a right to acquire a voting security.

§27-29-2. Subsidiaries and affiliates of domestic insurers.

(a) Authorization. -- Any domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries or affiliates in accordance with the provisions contained in this section. Such subsidiaries or affiliates may conduct any kind of business, or businesses, permitted by the Constitution and the laws of this state, and their authority to do so shall not be limited by reason of the fact that they are subsidiaries or affiliates of a domestic insurer.

(b) Additional investment authority. -- In addition to any other statute of this state, now existing or hereafter enacted, expressly authorizing investments in common stock, preferred stock, debt obligations and other securities, a domestic insurer, other than a life and health insurer, may also invest in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries or affiliates. In the event any such investments shall be made after April 27, 1981, then all such investments of such domestic insurer, whether made prior to or subsequent to April 27, 1981, shall be stated in all financial statements of such insurer filed with the commissioner at values determined as follows:

(1) All investments in common stock, preferred stock and other equity securities in such subsidiaries or affiliates shall be valued at the net asset (book) value of such securities; and

(2) All debt obligations shall be valued in accordance with standards and procedures established by the commissioner, which shall be in reasonable accord with the procedures and rules for valuing such securities as may be recommended, from time to time, by the National Association of Insurance Commissioners.

(c) Additional investment authority for life, disability and burial insurers. -- In addition to investments in common stock, preferred stock, debt obligations and other securities permitted under all other sections of this title, a domestic life, disability and burial insurer may also:

(1) Invest, in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries or affiliates, amounts which do not exceed the lesser of 10 percent of such insurer's assets or 75 percent of the total of the insurer's capital and surplus as shown in the latest annual report of the insurer filed pursuant to subsection (a) of section 27-3-26, less the minimum capital and surplus required of said insurer for authority to transact insurance by sections 27-3-7 and 27-3-8, provided that after such investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments, there shall be included:

a. Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary or affiliate, including all organizational expenses and contributions to capital and surplus of such subsidiary or affiliate, whether or not represented by the purchase of capital stock or issuance of other securities; and

b. All amounts expended in acquiring additional common stock, debt obligations and other securities and all contributions to the capital or surplus of a subsidiary or affiliate subsequent to its acquisition or formation;

(2) If the insurer's total liabilities, as calculated for National Association of Insurance Commissioners annual statement purposes are less than 10 percent of assets, invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries or affiliates, provided that after such investment the insurer's surplus as regards policyholders, considering such investment as if it were a disallowed asset, will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs;

(3) Invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries or affiliates, provided that each such subsidiary or affiliate agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in subdivision (1) of this subsection or in sections 27-41-15 through 27-41-18 and 27-41-35. For the purpose of this subdivision, "the total investment of the insurer" shall include:

a. Any direct investment by the insurer in an asset; and

b. The insurer's proportionate share of any investment in an asset by any subsidiary or affiliate of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of such subsidiary or affiliate;

(4) With the approval of the commissioner, invest any amount in common stock, preferred stock, debt obligations or other securities of one or more subsidiaries or affiliates, provided that after such investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs; and

(5) Invest any amount in the common stock, preferred stock, debt obligations or other securities of any subsidiary or affiliate exclusively engaged in holding title to and managing or developing real or personal property, if after considering as a disallowed asset so much of the investment as is represented by subsidiary assets which if held directly by the insurer would be considered as a disallowed asset, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, and if following such investment all voting securities of such subsidiary would be owned by the insurer.

(d) Exemption from investment restrictions. -- Investments in common stock, preferred stock, debt obligations or other securities of subsidiaries or affiliates made pursuant to subsection (b) or (c) of this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in this title applicable to such investments of insurers.

(e) Qualification of investment; when determined. -- Whether any investment pursuant to subsection (b) or (c) of this section meets the applicable requirements thereof is to be determined immediately after such investment is

made, taking into account the then outstanding principal balance on all previous investments in debt obligations and the value of all previous investments in equity securities as of the date they were made.

(f) Cessation of control. -- If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after such investment shall have been made such investment shall have met the requirements for investment under any other section of this title, and the insurer has notified the commissioner.

§27-29-3. Acquisition of control of, or merger with, domestic insurers.

(a) Filing and approval requirements. -- No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for or acquire in the open market any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any such offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved or within 15 days after any such offer, request or invitation is made or any such agreement is entered into, such person has filed with the commissioner and has sent to such insurer a statement containing the information required by this section and such offer, request, invitation, agreement or acquisition either:

(1) Has been approved by the commissioner in the manner prescribed in this section; or

(2) Expressly states that it is subject to approval by the commissioner in the manner prescribed in this section.

An offer, request, invitation, agreement or acquisition which contains such a condition and which is approved by the commissioner in the manner so prescribed shall be effective and binding according to its terms from the date on which it was made.

(b) Content of statement. -- The statement to be filed with the commissioner under this section shall be made under oath or affirmation and shall contain the following information:

(1) The name and address of each person by whom, or on whose behalf, the merger or other acquisition of control referred to in subsection (a) of this section is to be effected (hereinafter called "acquiring party"), and

a. If such person is an individual, his principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past 10 years; or

b. If such person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description

of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are, or who have been selected to become, directors or executive officers of such person or who perform, or will perform, functions appropriate to such positions. Such list shall include for each such individual the information required by paragraph a of this subdivision;

(2) The source, nature and amount of the consideration used, or to be used, in effecting the merger or other acquisition of control, a description of any transaction wherein funds were, or are to be, obtained for any such purpose, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests;

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement; provided, however, that in the case of an acquiring party which is an insurer actively engaged in the business of insurance, the financial statements of such insurer need not be audited, except such audit may be required if the need therefor is determined by the commissioner;

(4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person or to make any other material change in its business or corporate structure or management;

(5) The number of shares of any security referred to in subsection (a) of this section which each acquiring party proposes to acquire, the terms of the offer, request, invitation, agreement or acquisition referred to in subsection (a) of this section and a statement as to the method by which the fairness of the proposal was arrived at;

(6) The amount of each class of any security referred to in subsection (a) of this section which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(7) A full description of any contracts, arrangements or understandings with respect to any security referred to in subsection (a) of this section in which any acquiring party is involved, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into;

(8) A description of the purchase of any security referred to in subsection (a) of this section during the 12 calendar months preceding the filing of the statement by any acquiring party, including the dates of purchase, names of the purchasers and consideration paid, or agreed to be paid, therefor;

(9) A description of any recommendations to purchase any security referred to in subsection (a) of this section made during the 12 calendar months preceding the filing of the statement by any acquiring party or by anyone based upon interviews or at the suggestion of such acquiring party;

(10) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities referred to in subsection (a) of this section and, if distributed, or additional soliciting material relating thereto;

(11) The terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of securities referred to in subsection (a) of this section for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto; and

(12) Such additional information as the commissioner may, by rule or regulation, prescribe as necessary or appropriate for the protection of policyholders and securityholders of the insurer or in the public interest.

If the person required to file the statement referred to in subsection (a) of this section is a partnership, limited partnership, syndicate or other group, the commissioner may require that the information called for by subdivisions (1) through (12) of this subsection shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in subsection (a) of this section is a corporation, the commissioner may require that the information called for by subdivisions (1) through (12) of this subsection shall be given with respect to such corporation, each officer and director of such corporation and each person who is, directly or indirectly, the beneficial owner of more than 15 percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other materials relevant to such change, shall be filed with the commissioner and sent to such insurer within two business days after the person learns of such change. Such insurer shall send such amendment to its shareholders.

(c) Alternative filing materials. -- If any offer, request, invitation, agreement or acquisition referred to in subsection (a) of this section is proposed to be made by means of a registration statement under the Securities Act of 1933, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (a) of this section may utilize such documents in furnishing the information called for by that statement.

(d) Approval by commissioner; hearings.

(1) The commissioner shall approve any merger or other acquisition of control referred to in subsection (a) of this section unless, after a public hearing thereon, he finds that:

a. After the change of control the domestic insurer referred to in subsection (a) of this section would not be able to satisfy the requirements for the issuance of a license to write the line, or lines, of insurance for which it is presently licensed;

b. The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or to create a monopoly therein;

c. The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer or prejudice the interest of its policyholders;

d. The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and not in the public interest; or

e. The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control.

(2) The public hearing referred to in subdivision (1) of this subsection shall be held within 45 days after the statement required by subsection (a) of this section is filed, and at least 20 days' notice thereof shall be given by the commissioner to the person filing the statement. Not less than 15 days' notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner. The insurer shall give such notice to its securityholders. The commissioner shall make a determination within 30 days after the conclusion of such hearing. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent and any other person whose interest may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses and offer oral and written arguments and, in connection therewith, shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the circuit courts of this state. All discovery proceedings shall be concluded not later than five days prior to the commencement of the public hearing.

(e) Mailings to stockholders; payments of expenses. -- All statements, amendments or other material filed pursuant to subsections (a) or (b) of this section and all notices of public hearings held pursuant to subsection (d) of this section shall be mailed by the insurer to its stockholders within 10 business days after the insurer has received such statements, amendments, other material or notices. The expenses of mailing shall be borne by the person making the filing. As security for the payment of such expenses, such person shall file with the commissioner an acceptable bond or other deposit in an amount to be determined by the commissioner.

(f) Exemptions. -- The provisions of this section shall not apply to:

(1) Any offer, request, invitation, or agreement to acquire or the acquisition by a person referred to in subsection (a) of this section of any voting security

referred to in said subsection (a) which, immediately prior to the consummation of such offer, request, invitation, agreement or acquisition, was authorized but not issued and outstanding; provided, however, that after the acquisition of voting securities by such person that person shall not, either directly or indirectly, own, control, vote, hold, or otherwise have the right to acquire in any manner, 10 percent or more of the total issued and outstanding voting securities of the domestic insurer after the completion of such transaction. Any person proposing to acquire authorized but not issued and outstanding voting securities of a domestic insurer whose total direct and indirect holdings, including the right to acquire voting securities, would, after such acquisition of voting securities, equal or exceed 10 percent of the total issued and outstanding voting securities of such insurer, shall be subject to the provisions of subsection (a) of this section;

(2) Any offer, request, invitation, agreement or acquisition which the commissioner by order shall exempt therefrom as:

a. Not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer; or

b. As otherwise not comprehended within the purposes of this section.

(g) Violations. -- The following shall be violations of this section:

(1) The failure to file any statement, amendment or other material required to be filed pursuant to subsections (a) or (b) of this section; or

(2) The effectuation, or any attempt to effectuate, an acquisition of control of, or merger with, a domestic insurer unless the commissioner has given his approval thereto.

(h) Jurisdiction; consent to service of process. -- The courts of this state are hereby vested with jurisdiction over every person not resident, domiciled or authorized to do business in this state who files a statement with the commissioner under this section and over all actions involving such person arising out of violations of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by such a person of the commissioner to be his true and lawful attorney upon whom may be served all lawful process in any action or proceeding arising out of violations of this section. Copies of all such lawful process shall be served on the commissioner and transmitted by registered or certified mail by the commissioner to such person at his last known address.

§27-29-4. Registration of insurers.

(a) Registration. -- Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this section. Any insurer which is subject to registration under this section shall register within 60 days after September 3, 1973, or 15 days after it becomes subject to registration, whichever is later, unless the commissioner for good cause shown extends the

time for registration and, then, within such extended time. The commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such insurance company with the insurance regulatory authority of domiciliary jurisdiction.

(b) Information and form required. -- Every insurer subject to registration shall file a registration statement on a form provided by the commissioner which shall contain current information about:

(1) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer;

(2) The identity of every member of the insurance holding company system;

(3) The following agreements in force, relationships subsisting and transactions currently outstanding between such insurer and its affiliates:

a. Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

b. Purchases, sales or exchanges of assets;

c. Transactions not in the ordinary course of business;

d. Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

e. All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles; and

f. Reinsurance agreements covering all, or substantially all, of one or more lines of insurance of the ceding company; and

(4) Other matters concerning transactions between registered insurers and any affiliates as may be included, from time to time, in any registration forms adopted or approved by the commissioner.

(c) Materiality. -- No information need be disclosed on the registration statement filed pursuant to subsection (b) of this section if such information is not material for the purposes of this section. Unless the commissioner by rule, regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit or investments involving one half of one percent or less of an insurer's admitted assets as of December 31, next preceding, shall not be deemed material for purposes of this section.

(d) Amendments to registration statements. -- Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the commissioner within 15 days after the end of the month in which it learns of

each such change or addition; provided, however, that subject to subsection (c) of section 27-29-5, each registered insurer shall so report all dividends and other distributions to shareholders within two business days following the declaration thereof.

(e) Termination of registration. -- The commissioner shall terminate the registration of any insurer which demonstrated that it no longer is a member of an insurance holding company system.

(f) Consolidated filing. -- The commissioner may require or allow two or more affiliated insurers subject to registration under this section to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

(g) Alternative registration. -- The commissioner may allow an insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (a) of this section and to file all information and material required to be filed under this section.

(h) Exemptions. -- The provisions of this section shall not apply to any insurer, information or transaction if, and to the extent that, the commissioner by rule, regulation or order shall exempt the same from the provisions of this section.

(i) Disclaimer. -- Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person, unless and until the commissioner disallows such a disclaimer. The commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

(j) Violations. -- The failure to file a registration statement or any amendment thereto required by this section within the time specified for such filing shall be a violation of this section.

§27-29-5. Registered Insurers -- Standards for transactions with affiliates; adequacy of surplus; dividends and other distributions.

(a) Transactions with affiliates. -- Material transactions by registered insurers with their affiliates shall be subject to the following standards:

(1) The terms shall be fair and reasonable;

(2) The books, accounts and records of each party will be so maintained as to clearly and accurately disclose the precise nature and details of the transactions; and

(3) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder; affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) Adequacy of surplus. -- For purposes of this chapter in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(2) The extent to which the insurer's business is diversified among the several lines of insurance;

(3) The number and size of risks insured in each line of business;

(4) The extent of the geographical dispersion of the insurer's insured risks;

(5) The nature and extent of the insurer's reinsurance program;

(6) The quality, diversification and liquidity of the insurer's investment portfolio;

(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(8) The surplus as regards policyholders maintained by other comparable insurers;

(9) The adequacy of the insurer's reserves; and

(10) The quality and liquidity of investments in subsidiaries made pursuant to section 27-29-2. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in his judgment such investment so warrants.

(c) Dividends and other distributions. -- No insurer subject to registration under section 27-29-4 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until:

(1) Thirty days after the commissioner has received notice of the declaration thereof and has not within such period disapproved such payment; or

(2) The commissioner shall have approved such payment within such 30-day period.

For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property whose fair market value, together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of:

(1) Ten percent of such insurer's surplus as regards policyholders as of December 31, next preceding; or

(2) The net gain from operations of such insurer, if such insurer is a life insurer, or the net investment income, if such insurer is not a life insurer, for the 12-month period ending December 31, next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until:

(1) The commissioner has approved the payment of such dividend or distribution; or

(2) The commissioner has not disapproved such payment within the 30-day period referred to above.

§27-29-6. Same -- Examination of records, etc., of insurer or affiliates.

(a) Power of commissioner. -- Subject to the limitation contained in this section and in addition to the powers which the commissioner has under sections 27-2-7, 27-2-21, 27-2-23 and 27-2-26, relating to the examination of insurers, the commissioner shall also have the power to order any insurer registered under section 27-29-4 to produce such records, books or other information papers in the possession of the insurer, or its affiliates, as shall be necessary to ascertain the financial condition or legality of conduct of such insurer and to verify the information required to be contained in the insurer's registration statement and any additional information pertinent to transactions between the insurer and its affiliates. In the event such insurer fails to comply with such order, the commissioner shall have the power to examine such affiliates to obtain such information.

(b) Purpose and limitation of examination. -- The commissioner shall exercise his power under subsection (a) of this section only if the examination of the insurer under sections 27-2-7, 27-2-21, 27-2-23 and 27-2-26 is inadequate or the interests of the policyholders of such insurer may be adversely affected.

(c) Use of consultants. -- The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under subsection (a) of this section. Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

(d) Expenses. -- Each registered insurer producing for examination records, books and papers pursuant to subsection (a) of this section shall be liable for and shall pay the expense of such examination as provided in section 27-2-25.

§27-29-7. Confidential treatment of information, etc., examined or reported.

All information, documents and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 27-29-6 and all information reported pursuant to section 27-29-4 shall be given confidential treatment, shall not be subject to subpoena and shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby not less than five days' written notice and opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event he may publish all, or any part thereof, in such manner as he may deem appropriate.

§27-29-8. Rules, regulations and orders.

The commissioner may issue such rules, regulations and orders as shall be necessary to carry out the provisions of this chapter.

§27-29-9. Injunctions; prohibitions against voting securities; sequestration of voting securities.

(a) Injunctions. -- Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed, or is about to commit, a violation of this chapter or of any rule, regulation or order issued by the commissioner under this chapter, the commissioner may apply to the circuit court for the county in which the principal office of the insurer is located or if such insurer has no such office in this state, then to the circuit court for Montgomery county for an order enjoining such insurer or such director, officer, employee or agent thereof from violating, or continuing to violate, this chapter or any such rule, regulation or order and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors and shareholders or the public may require.

(b) Voting of securities; when prohibited. -- No security which is the subject of any agreement or arrangement regarding acquisition or which is acquired, or to be acquired, in contravention of the provisions of this chapter or of any rule, regulation or order issued by the commissioner under this chapter may be voted at any shareholders' meeting or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of such securities unless the action would materially affect control of the insurer or unless the courts of this state have so ordered. If an insurer or the commissioner has reason to believe that any security of the insurer has been, or is about to be, acquired in contravention of the provisions of this chapter or of any rule, regulation or order issued by the commissioner under this chapter, the insurer or the commissioner may apply to the circuit court for Montgomery county or to the circuit court for the county in which the insurer has its principal place of business to enjoin any offer, request, invitation, agreement or acquisition made in contravention of section 27-29-3 or any rule, regulation or order issued by the commissioner thereunder to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders and for such other equitable relief as

the nature of the case and the interests of the insurer's policyholders, creditors and shareholders or the public may require.

(c) Sequestration of voting securities. -- In any case where a person has acquired or is proposing to acquire any voting securities in violation of this chapter or any rule, regulation or order issued by the commissioner under this chapter, the circuit court for Montgomery county or the circuit court for the county in which the insured has its principal place of business may, on such notice as the court deems appropriate, upon the application of the insurer or the commissioner, seize or sequester any voting securities of the insurer owned, directly or indirectly, by such person and issue such orders with respect thereto as may be appropriate to effectuate the provisions of this chapter. Notwithstanding any other provision of law, for the purposes of this chapter the situs of the ownership of the securities of domestic insurers shall be deemed to be in this state.

§27-29-10. Criminal proceedings.

Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this chapter, the commissioner may cause criminal proceedings to be instituted by the district attorney for the county in which the principal office of the insurer is located, or if such insurer has no such office in the state, then by the district attorney for Montgomery county, against such insurer or the responsible director, officer, employee or agent thereof. Any insurer which willfully violates this chapter may upon conviction be fined not more than \$10,000.00. Any individual who willfully violates this chapter may upon conviction be fined not more than \$1,000.00 or, if such willful violation involves the deliberate perpetration of a fraud upon the commissioner, imprisoned not more than two years, or both.

§27-29-11. Delinquency proceedings and rehabilitation.

Whenever it appears to the commissioner that any person has committed a violation of this chapter which so impairs the financial condition of a domestic insurer as to threaten imminent insolvency or impairment as defined in subdivision (1) of section 27-32-1 or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders or the public, then the commissioner may proceed as provided in sections 27-32-3 through 27-32-7 to take possession of the property of such domestic insurer and to conduct the business thereof.

§27-29-12. Suspension, revocation or nonrenewal of insurer's license or authority to do business.

Whenever it appears to the commissioner that any person has committed a violation of this chapter which makes the continued operation of an insurer contrary to the interests of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, determine to suspend, revoke or refuse to renew such insurer's license or authority to do business in this state for such period as he finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

§27-29-13. Judicial review of actions by commissioner; petition for mandamus against same.

(a) Any person aggrieved by any act, determination, rule, regulation or order or any other action of the commissioner pursuant to this chapter may appeal therefrom within 30 days after such action, determination, rule or regulation is taken or issued, in accordance with the provisions of section 27-2-32, except that the court shall conduct its review without a jury and by trial de novo; provided, however, that all the parties, including the commissioner, may stipulate that the review shall be confined to the record. Portions of the record may be introduced by stipulation into evidence in a trial de novo as to those parties so stipulating.

(b) The filing of an appeal pursuant to this section shall stay the application of any such rule, regulation, order or other action of the commissioner to the appealing party unless the court, after giving such party notice and an opportunity to be heard, determines that such a stay would be detrimental to the interests of policyholders, shareholders, creditors or the public.

(c) Any person aggrieved by any failure of the commissioner to act or to make a determination required by this chapter may petition the circuit court for Montgomery county for a writ in the nature of a mandamus or a peremptory mandamus directing the commissioner to act or make such determination forthwith.

§27-29-14. Short title.

This chapter may be cited as the Alabama Insurance Holding Company System Regulatory Act.

§27-30-1. "Mutual aid association" defined.

For the purposes of this title, a "mutual aid association," whether otherwise known as a "benefit" or "industrial" company or by whatever other name called, is a corporation whose business is limited to the provision of any of the following payments, aid or benefits under certificates, policies or agreements issued to or made with members or policyholders and which payments, aid or benefits are derived from donations, fees, dues, assessments or premiums:

(1) Upon the birth of any child, or marriage, or sickness or physical disability of the policyholder or member, or of his dependent, to pay money or render aid;

(2) The provision of dental, medical or surgical attention, or hospital service or attention of any kind as to the member or policyholder or to his dependents; or

(3) Upon death of the policyholder or member or of his dependent, to pay money or render aid, including burial benefits or the furnishing of a complete funeral and including the payment of money and rendering aid to a beneficiary as designated by the policyholder or member becoming deceased.

§27-30-2. Applicability of chapter – Generally.

(a) This chapter applies only to domestic mutual aid associations, as defined in section 27-30-1.

(b) No provision of this title shall apply to mutual aid associations except as contained or referred to in this chapter.

§27-30-3. Same -- Exceptions.

The designation "mutual aid association" and this chapter do not apply as to:

(1) Any secret or benevolent society, such as Masons, Odd Fellows, Knights and Ladies of Honor, Knights of Pythias, or like orders and societies, or any association organized and operating in good faith under the lodge system for purely benevolent purposes and with a ritualistic form of work;

(2) Agreements between hospitals and industrial corporations to provide for hospital services for the employees of such corporations, and the employment by such corporations of medical doctors, surgeons and dentists for the purpose of giving medical, surgical and dental attention to such employees; or

(3) Any insurer operating under, or subject to, the general insurance laws of this state.

§27-30-4. Authorization to act as, or for, association -- Generally.

(a) No person shall in this state be, act as or hold itself out to be a mutual aid association except in compliance with this chapter and as authorized by a subsisting certificate of authority therefor, issued by the commissioner under this chapter.

(b) No person shall act as solicitor, collector or otherwise as an agent or representative of any entity or organization acting as, or purporting to be, a mutual aid association unless such entity or organization is then authorized as a mutual aid association as required in subsection (a) of this section.

(c) Any person who violates this section shall, upon conviction thereof, be guilty of a misdemeanor and punished by a fine of not less than \$200.00 nor more than \$1,000.00, or by imprisonment in the county jail for not less than 10 days nor more than one year or by both such fine and imprisonment, in the discretion of the court. For the purposes of this section, each instance of such violation shall be deemed to constitute a separate offense.

§27-30-5. Same -- Requirements.

No person shall hereafter be authorized or hold authority to transact business in this state as a mutual aid association unless it is otherwise in compliance with this chapter and meets the following requirements:

(1) Must be a corporation heretofore or hereafter lawfully formed under the laws of the state of Alabama;

(2) If a stock corporation, and except as provided in section 27-30-6, must have and maintain unimpaired paid-in capital stock of not less than \$50,000.00 and, if newly organized, must have, in addition when first so authorized, a paid-in surplus of not less than \$75,000.00;

(3) If a mutual corporation, and except as provided in section 27-30-6, must have applications for benefits and paid-in fees, dues, assessments or contributions, if required under section 27-30-27, and must thereafter have and maintain unimpaired surplus funds, representing the excess of its admitted assets over all its required reserves and incurred liabilities, of not less than \$75,000.00;

(4) Its management and affairs must be conducted under the actual and active control, direction and supervision of directors or trustees, officers and other management personnel, each of whom has been found, by the commissioner after due investigation, to be an individual of good character and reputation and with sufficient education, training or experience to be reasonably competent in the fulfillment of his duties and responsibilities relative to the association;

(5) Must not be affiliated, directly or indirectly, with any person or persons whose business operations are, or have been, marked to the detriment of members, policyholders, stockholders, creditors or the public by manipulation of assets or accounts, or of reinsurance or by bad faith; and

(6) Must have and maintain in this state a principal office for the transaction of its business and must keep therein records and accounts of its affairs as required under section 27-30-21.

§27-30-6. Capital stock or surplus requirements for existing associations.

Any domestic mutual aid association which immediately prior to January 1, 1972, lawfully held a certificate of authority or license to transact such business in this state and which is otherwise in compliance with the requirements of this chapter shall be entitled to have a certificate of authority while it has and maintains unimpaired paid-in capital stock, if a stock corporation, or surplus, if a mutual corporation, as follows:

(1) If it is a stock corporation, it must have and maintain capital stock of at least \$25,000.00; except, that an association having unimpaired paid-in capital stock on January 1, 1972, in less than such amount shall as of each December 31, following January 1, 1972, have increased its unimpaired paid-in capital stock by an amount equal to not less than 20 percent of such original deficiency, so that, and until not later than the fifth such December 31, the association shall have unimpaired paid-in capital stock of not less than \$25,000.00. Such an association shall be entitled to have its certificate of authority continue in effect during such five-year period if it is otherwise entitled thereto under this chapter;

(2) If it is a mutual corporation, it must have and maintain unimpaired surplus funds in the amount of not less than \$12,500.00; except, that an association having unimpaired surplus funds on January 1, 1972, in less than such amount shall as of each December 31, following January 1, 1972, have increased its unimpaired surplus funds by an amount equal to not less than 20 percent of such original deficiency, so that, and until not later than the fifth such December 31, the association shall have unimpaired surplus funds of not less than \$12,500.00. Such an association shall be entitled to have its certificate of authority continue in effect during such five-year period if it is otherwise entitled thereto under this chapter; and

(3) The commissioner shall promptly revoke the certificate of authority of any such association that does not comply with the requirements of this section.

§27-30-6.1. Authority to increase paid-in capital stock and paid-in surplus; contracts or policies on any one life and accidental death benefits.

(a) All mutual aid associations which have held valid certificates of authority under sections 27-30-1 through 27-30-33 for a period of five years prior to June 8, 1984, are hereby authorized to increase the paid-in capital stock and paid-in surplus of the association. Any association maintaining a minimum surplus of \$100,000.00 is authorized to provide contracts or policies on any one life not to exceed five percent of the capital of such association, and to provide accidental death benefits on any one life so insured not to exceed the amount of life insurance provided.

(b) The provisions of subsection (a) of this section shall additionally apply to all mutual aid associations, after said associations have completed five years of operations and are in compliance with the Insurance Code of Alabama.

§27-30-7. Name of association.

Every mutual aid association shall have and use in its transactions a corporate name suited to the character and purposes of the association. No such name shall so closely resemble the name of any other corporation or organization doing business in Alabama or elsewhere as to tend to be confusing or deceptive, nor shall any such name be one which tends to confuse or mislead as to the character or plan of operation of the association.

§27-30-8. Certificate of authority -- Application.

(a) To apply for a certificate of authority, a mutual aid association shall file with the commissioner its application therefor, on forms as prescribed and furnished by him, and showing:

(1) Name of the association and the address of its principal office or place of business in this state;

(2) Name, identification and residence address of each director, trustee or officer of the association;

(3) The types of aid or benefits to be provided its members or policyholders;

(4) The general plan or plans according to which its business is, or will be, conducted; and

(5) Such other information as the commissioner may reasonably require.

(b) The applicant shall at the time of application for certificate of authority file with the commissioner such of the following as are not already on file with him:

(1) A copy of its articles of incorporation, its bylaws and other charter or constituent documents, certified by the public official having custody of the original

or, in the case of documents not already of public record, certified by the officer of the association having custody thereof;

(2) A copy of each policy, certificate, contract and agreement it proposes to use in the conduct of its business and relating to aid and benefits to be provided its members or policyholders;

(3) A financial statement, upon the same form and with verification as required for its annual statement as provided for under section 27-30-22, showing its current financial condition;

(4) A schedule of fees, dues, contributions or other sums to be charged or received by the association in transactions under its certificate of authority, if granted;

(5) Appointment of the commissioner as its attorney to receive service of process, as required under section 27-30-13; and

(6) Such other documents and matters as the commissioner may reasonably require.

(c) At time of filing its application, the association shall pay to the commissioner the applicable fees prescribed in subdivision (a) (1) of section 27-4-2.

§27-30-9. Same -- Issuance or refusal.

If, upon completion of the application for a certificate of authority, the commissioner finds:

(1) That the documents filed with the application are lawful and equitable in terms and have been properly executed and filed;

(2) That the applicant has the amount of unimpaired paid-in capital stock and/or surplus as required under this chapter and has made the deposit required under section 27-30-18;

(3) That the forms of contracts, policies or other agreements proposed to be used by the association in this state fulfill the requirements of section 27-30-14 and are not disapproved by him on any ground referred to in subsection (c) of section 27-30-14;

(4) That the proposed schedule of fees, dues, contributions or other sums to be charged or received by the association are provided for on a practical and feasible basis and would be adequate in amount to cover the risks and obligations to be assumed by the association under its certificates, policies and agreements, together with its reasonable expenses of operation;

(5) That the management and affairs of the association will be conducted under the actual and active control, direction and supervision of directors or trustees, officers and other management personnel, each of whom is an individual of good character and reputation and with sufficient education, training or experience to be reasonably competent in the fulfillment of his duties and responsibilities relative to the association; and

(6) That the applicant is otherwise entitled to a certificate of authority under this chapter,

he shall issue to the association a proper certificate of authority; if he does not so find, the commissioner shall issue his order refusing such certificate. The commissioner shall act upon an application for a certificate of authority within a reasonable period after its completion.

§27-30-10. Same -- Expiration; renewal.

(a) The certificate of authority of a mutual aid association issued under this chapter shall expire annually at midnight on the May 31 next following the date of issuance or renewal.

(b) If the association has filed its annual statement for the preceding calendar year, has paid its taxes as provided for in this chapter and is otherwise entitled thereto under this chapter, the commissioner shall annually as of June 1, issue to the association a renewal certificate of authority if written request of the association therefor, accompanied by the annual renewal fee specified in section 27-4-2, is received by the commissioner not later than the preceding May 1. If such request for renewal and fee is received by the commissioner after such May 1, but prior to the next following June 15, the commissioner may, in his discretion, issue to the association a renewal certificate of authority as of such June 1 if the request is also accompanied by a reinstatement fee in the amount specified in paragraph (a) (1) d of section 27-4-2.

§27-30-11. Same -- Suspension or revocation -- Grounds.

(a) The commissioner shall suspend or revoke the certificate of authority of a mutual aid association if he finds, upon examination or other evidence, that any one or more of the following grounds exist:

(1) For any cause for which he could have refused to issue the certificate of authority under this chapter had it then existed and been known to the commissioner;

(2) If the association is in unsound condition or is in such condition or is using such methods and practices in the conduct of its business as to render its further transactions of insurance in this state hazardous to its members, policyholders, dependents, beneficiaries or to the public;

(3) If the association has refused to be examined or to produce its accounts, records and files for examination or if any of its officers or agents have refused to perform any legal obligation relative thereto or have willfully refused to give information with respect to its affairs, when required by the commissioner; or

(4) If the association has failed to pay any final judgment against it in favor of a citizen of this state.

(b) The commissioner may, in his discretion, suspend or revoke the certificate of authority of a mutual aid association if he finds, upon examination or other evidence, that any one or more of the following grounds exist:

(1) If the association has failed to keep adequate and proper records of its transactions or to give proper receipts and account for moneys paid to or received by it;

(2) If the association has, with such frequency as to indicate its general business practice in this state, without just cause, refused to pay proper claims arising under its policies, certificates, contracts or agreements or, without just cause, compels claimants to accept less than the amount due them or to employ attorneys or to bring an action against the association to secure full payment or settlement of such claims; or

(3) For violation of any provision of, or referred to in, this chapter.

§27-30-12. Same -- Same -- Procedure.

(a) If suspension or revocation of certificate of authority relates to grounds other than the financial condition of the association, the commissioner shall give the association written notice of his intention to so suspend or revoke not less than 10 days in advance of the effective date of the proposed order of suspension or revocation. The notice shall state the grounds of the commissioner's proposed action, together with such details as reasonably to inform the association thereof. Notice mailed to the association at its principal place of business last of record with the commissioner shall be deemed to have been given when so mailed. If within such 10-day period the association files with the commissioner its written request for a hearing with respect to the proposed suspension or revocation, setting forth the reasons why, in its opinion, the commissioner's proposed action is unlawful or should not be taken, the commissioner shall hold the hearing so requested, upon notice and under procedures as provided for in chapter 2 of this title, and shall not effectuate the proposed suspension or revocation pending the hearing and his order made thereon.

(b) Following any such suspension or revocation, the commissioner may cause notice thereof to be published in one or more newspapers of general circulation in this state.

(c) Upon such suspension or revocation becoming effective, the commissioner shall likewise suspend or revoke the licenses of all agents of the association.

§27-30-13. Commissioner as agent for process; service of process; notice of change of address.

(a) Every mutual aid association, at the time of filing application for its certificate of authority, shall, by a duly executed instrument filed with the commissioner, on a form as designated and furnished by the commissioner, designate the principal office of the association in this state and constitute and appoint the commissioner, and his successors in office, as its true and lawful attorney upon whom all lawful process in actions or legal proceedings against it may be served; and the association shall agree that any lawful process against it which may be served upon its said attorney shall be of the same force and validity as if served on the association itself and that the authority thereof shall continue in force irrevocably as long as any liability remains outstanding against it in this state.

(b) Two copies of any process issued by any court of record in this state and served upon the commissioner or the person in charge of the commissioner's office by the proper officer of Montgomery county shall be deemed a sufficient service on the association; and the commissioner, promptly after such service of process, shall forward by registered or certified mail one of the copies of such process to the association at its principal place of business referred to in subsection (a) of this section.

(c) Within 30 days after the change of address of its principal office in this state, the association shall file written notice thereof with the commissioner. (Code 1940, T. 28, §262; Acts 1971, No. 407, p. 707, §569.)

§27-30-14. Contracts -- Issuance; contents; approval by commissioner.

(a) A mutual aid association shall issue to each member or policyholder a contract, in the English language, printed or reproduced by other easily legible means, and whether called a "certificate," "policy," "agreement" or by whatever name, setting forth the aid and benefits for which the association is liable as to the respective individuals covered by such contract and the terms and conditions thereof and the amounts payable to the association on account of such contract and the terms and conditions of such payments. Any contract providing for aid, service, funeral or other benefits payable otherwise than in cash shall set forth the reasonable cash value at retail of such aid, service, funeral and other benefits, together with the valuation of such benefits for the purpose of computation of the reserves as provided in section 27-30-17.

(b) No provision or agreement not contained in such contract shall be deemed to affect, in any manner, the terms and conditions of the contract. No provision contained, or to be contained, in any other document shall be made a part of the contract by reference unless the pertinent portions of such other document or an adequate summary thereof are set forth in the contract.

(c) An association shall not offer or use any form of contract until such form has been on file with the commissioner for at least 20 days, nor thereafter if the form has been disapproved by the commissioner. Within such 20 days, or at any time thereafter, the commissioner may disapprove any such form found by him to be unlawful, or unreasonable in its terms and conditions, or inequitable or that contains ambiguous and misleading clauses or clauses and conditions that tend to deceive as to the coverage and benefits purported to be given under the contract. The association shall not thereafter offer or use any such form which the commissioner has disapproved. The commissioner shall set forth the grounds thereof in any order of disapproval issued by him.

§27-30-15. Same -- Limits of risk.

(a) An association shall not, at any one time, have in force any contract, or any number of contracts, covering the same individual, whether such individual is so covered as a member, policyholder, dependent or in any other capacity, for benefits payable in cash, or having a reasonable cash value, aggregating in excess of amounts as follows:

(1) Death benefits payable upon the death of any one individual, for death by any cause, \$1,000.00;

(2) Accidental death benefits payable only upon the accidental death of any one individual, and including any special or additional benefits for accidental death included in any other death benefit contract, \$1,000.00; or

(3) Funeral benefits and other merchandise, aid and service benefits, \$1,000.00.

(b) This section shall not be deemed to make illegal any contract or coverage lawfully issued prior to January 1, 1972, but the association shall not issue any new contract covering in any way any individual likewise covered under any such prior contract if after issuance of such new contract any such individual would be covered, under all contracts issued by the association and then in force, for amounts which exceed in aggregate amount the limits respectively provided for in subsection (a) of this section.

(c) Notwithstanding the limitations set forth in subsection (a) of this section, an association which maintains capital and surplus in amounts not less than that required by section 27-30-5, shall not, at any one time, have in force any contract, or any number of contracts, covering the same individual, whether such individual is so covered as a member, policyholder, dependent or in any other capacity for benefits payable in cash, or having a reasonable cash value, aggregating in excess of amounts as follows:

(1) Death benefits payable upon the death of any one individual, for death by any cause, \$2,500.00; or

(2) Accidental death benefits payable only upon the accidental death of any one individual, and including any special or additional benefits for accidental death included in any other death benefit contract, \$2,500.00.

§27-30-16. Same -- Annual valuation -- Benefits payable in cash.

(a) The commissioner shall each year compute the net value as of December 31 of the preceding year of all benefits payable in cash under all outstanding contracts or policies of each mutual aid association. Such valuation shall be made upon the basis of the "combined experience" or "actuaries table" or "the American experience table" rate of mortality (Illinois standard of valuation), with interest at the rate of four percent per annum. The aggregate net value so ascertained of such contracts or policies of the association shall be deemed its liability on account of such cash benefits, other than accrued claims, for the purpose of any determination of its financial condition.

(b) Funds of the association in amount not less than the value of such benefits, as valued under this section, shall be held by the association in cash or in investments as authorized under section 27-30-20.

§27-30-17. Same -- Same -- Benefits, aid or services other than cash.

(a) The commissioner shall each year cause all outstanding contracts or policies of every mutual aid association to be carefully valued as of December 31 of the preceding year at 40 percent of the retail value of the benefits, aid or services provided under the terms of its contracts or policies or at the average

wholesale cost of the funeral supplies, benefits, aid and services so provided for, whichever amount is the greater, as shown by the number of contracts or policies in force according to the books and records of the association, and shall at the time compute the net value of all such outstanding contracts or policies of every such association in the following manner:

(1) On all outstanding contracts or policies issued prior to September 16, 1953, the commissioner shall compute the net value thereof by the two following separate methods:

a. Method No. 1: On the basis of \$1.50 for each \$100.00 at risk; or

b. Method No. 2: On the basis of the "combined experience" or "actuaries table," or "the American experience table" rate of mortality (Illinois standard of valuation), with interest at the rate of four percent per annum.

On each December 31, the net value of all such outstanding contracts or policies issued prior to September 16, 1953, shall be the net value as computed by said method No. 1, plus as many times one tenth of the difference, if any there be, between the net value as computed by method No. 1 and the net value as computed by said method No. 2, as the number of full years elapsed since September 16, 1953; and said net value on each December 31 shall continue to be so computed until such time as said net value so computed shall be equal to the net value on such contracts or policies as computed exclusively by method No. 2, after which time the net value of all such outstanding contracts or policies shall be the net value as computed by method No. 2, exclusively; and

(2) On all outstanding contracts or policies issued on and after September 16, 1953, the commissioner shall compute the net value thereof on the basis set out in the method No. 2 in subdivision (1) of this subsection, and the net value of all such outstanding contracts or policies shall on each December 31 thereafter be the net value as so computed.

(b) The net value of all the outstanding contracts or policies of every such association as of each December 31, ascertained and computed in accordance with the provisions of subsection (a) of this section, shall be deemed its liability on account of the benefits, aid or services payable other than in cash of such outstanding contracts or policies, other than accrued claims, to provide for which; and for the protection of its contract or policyholders, each such association shall hold net assets of an amount equal to such net value, which reserve assets may consist of cash, and such investments as are authorized under section 27-30-20.

§27-30-18. Deposit – Amounts; purpose; kind.

(a) Each mutual aid association shall, prior to issuance of its certificate of authority, deposit and thereafter maintain on deposit with the treasurer of the state of Alabama securities of the kind authorized under subsection (d) of this section, in the amount of not less than \$5,000.00. If in any calendar year the gross premium receipts of the association from business done within this state exceed \$50,000.00, the association shall, not later than the March 30 next following such calendar year, increase the amount of its deposit so made and maintained in accordance with the following schedule:

Gross premium receipts during calendar year			Amount of deposit required
More than	\$50,000 but less than	\$150,000	\$10,000
Equal to	150,000 but less than	250,000	15,000
Equal to	250,000 but less than	350,000	20,000
Equal to	350,000 but less than	500,000	25,000
Equal to	500,000 but less than	750,000	50,000
Equal to	750,000 but less than	1,000,000	75,000
Equal to	1,000,000 or more		100,000

(b) Any such deposit is so made and shall be so held by the state treasurer in trust for the benefit and protection of the contract or policyholders in this state of the depositing mutual aid association.

(c) The term "gross premium receipts" as used in this section shall include all sums received by the association as fees, dues, premiums, contributions or by whatever other name called from its contract or policyholders as consideration for, or in connection with, such contracts and policies.

(d) All such deposits shall consist of assets, approved by the commissioner, such as are eligible for deposit generally under subsection (a) of section 27-6-3.

§27-30-19. Same – Administration.

(a) Deposits of mutual aid associations, heretofore or hereafter made with the state treasurer under section 27-30-18 or under laws heretofore in force, shall be administered as provided by, be subject to withdrawal and release and otherwise be subject to the applicable provisions of chapter 6 of this title, other than the following sections:

(1) Section 27-6-2; and

(2) Section 27-6-13.

(b) A mutual aid association shall be deemed to be an "insurer" for the purposes and within the terms of chapter 6 of this title.

§27-30-20. Funds of association.

The funds of a mutual aid association shall be in cash or invested as provided by the laws of this state with respect to such associations and life insurers. (Code 1940, T. 28, §253; Acts 1971, No. 407, p. 707, §576.)

§27-30-21. Accounts and records.

(a) Every mutual aid association shall keep complete and accurate accounts and records of its affairs and transactions, in accordance with the usual and accepted methods and principles of insurance accounting and record keeping as applicable to the kind of business transacted by the association.

(b) All such accounts and records of a mutual aid association shall be kept in the principal offices of the association located in this state and be available for inspection thereat by the commissioner on any general business day.

(c) The commissioner may suspend or revoke the certificate of authority of any association found by him to be in violation of this section.

§27-30-22. Annual statement; furnishing of other information.

(a) Each mutual aid association shall, annually on or before March 1, file with the commissioner a full and true statement of its financial condition, transactions and affairs as of the December 31 preceding. The statement shall be in such general form and content as is prescribed or approved by the commissioner and shall be reasonably adapted to the plans of operation of such associations. The statement shall be verified by an officer of the association having knowledge of the facts.

(b) In addition to information called for and furnished in connection with its annual statement, an association shall furnish promptly to the commissioner such information as to any of its transactions or affairs as the commissioner may, from time to time, request in writing.

(c) At the time of filing, the association shall pay the fee for filing its annual statement as prescribed by section 27-4-2.

(d) The commissioner may, in his discretion, suspend or revoke the certificate of authority of an association failing to file its annual statement when due.

§27-30-23. Duty of officers and agents.

Any officer or agent of a mutual aid association whose duty it is to maintain its accounts and records, or to make the annual report to the commissioner or to designate the principal place of business or agent for service of process of such association as required under this chapter and who fails so to do or who willfully makes a false account, record or report shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$200.00 nor more than \$1,000.00 and may be imprisoned in the county jail for not fewer than 10 days nor longer than one year.

§27-30-24. Examinations by commissioner.

The commissioner shall, at least once every three years and oftener whenever he deems it prudent to do so, examine each mutual aid association doing business in this state. Except as to frequency of examination, such examinations and the association shall be subject to the provisions of chapter 2 of this title as applicable to similar examinations of other insurers.

§27-30-25. Exemption of resident members', etc., interest from process.

The interest of resident members and policyholders of mutual aid associations therein, and of resident beneficiaries provided for thereby, is exempt from all process for the collection of debts or the enforcement of liabilities. (Code 1940, T. 28, §276; Acts 1971, No. 407, p. 707, §583.)

§27-30-26. Incorporation and financing of new associations.

New domestic mutual aid associations, whether stock corporations or mutual corporations, shall hereafter be incorporated and financed under the same provisions and procedures as apply to domestic legal reserve stock or mutual insurers under chapter 27 of this title, other than provisions made inapplicable under section 27-30-33 or in conflict with the express provisions of this chapter; except, that, if to be a mutual corporation, its articles of incorporation shall provide either for the contingent liability of its members for the payment of losses and expenses of the association or the general conditions under which such members may otherwise be required to pay assessments for the payment of such losses and expenses, and the liability of members to assessment shall be further detailed in the corporation's bylaws.

§27-30-27. Qualification of corporation for original certificate of authority.

(a) When applying for an original certificate of authority, a domestic corporation formed to transact a mutual aid business on the mutual plan must be otherwise qualified therefor under this title, must have entered into bona fide agreements for insurance of the kind proposed to be transacted, with not less than 500 persons and must have received therefrom as initial premiums, fees or contributions at rates theretofore filed with, and approved by, the commissioner as being both adequate and reasonable, not less than \$25,000.00 in cash.

(b) No such agreements shall be solicited, however, except pursuant to a solicitation permit granted by the commissioner as provided in sections 27-27-4 through 27-27-7.

§27-30-28. Increase or decrease of capital stock.

(a) A domestic mutual aid association incorporated on the stock plan, whether heretofore or hereafter formed, may increase or decrease the amount of its authorized capital stock by amendment of its articles of incorporation in the same manner, and subject to the same conditions and procedures, as apply to domestic stock insurers in general under this title.

(b) As to a corporation formed prior to January 1, 1972, no increase of authorized capital stock shall be made which does not bring the amount thereof up to at least \$50,000.00, and no decrease of authorized capital stock shall be made which reduces authorized capital stock below \$50,000.00. (Code 1940, T. 28, §254; Acts 1971, No. 407, p. 707, §586.)

§27-30-29. Membership; meetings of members; voting rights.

(a) Every holder of a policy, certificate or benefit agreement issued by the association and then in force shall be deemed to be a member of the association.

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(b) Annual and special meetings of the members of a domestic mutual aid association formed on the mutual plan shall be held as provided by the laws of this state for stock insurers.

(c) Notwithstanding the provisions of subdivision (b) (1) of section 27-27-22, each member of the association shall be entitled to one vote upon each matter voted upon at the meeting. Each member shall have the right to attend and vote on all matters before the meeting in person or by written proxy executed at least 30 days prior to the meeting.

§27-30-30. Directors or trustees.

(a) The affairs of every domestic mutual aid association shall be governed by a board of directors or board of trustees consisting of not less than seven members, each of whom must be a member or stockholder of the corporation.

(b) Directors shall be elected by the members or stockholders of the association at the annual meeting of stockholders or members. Directors may be elected for terms of not less than one nor more than five years each and until their successors are elected and have qualified, as provided in the association's bylaws. If to be elected for terms of more than one year, the bylaws shall provide for a staggered term system under which the terms of a proportionate part of the members of the board will expire on the date of each annual meeting of members or stockholders.

(c) A majority of the directors or trustees must at all times be residents of this state. (Code 1940, T. 28, §§251, 256, 258; Acts 1971, No. 407, p. 707, §588.)

§27-30-31. Applicability of fee and taxation provisions.

REPEALED BY ACTS 1993, NO. 93-679, § 12. EFFECTIVE JANUARY 1, 1995.

(a) Mutual aid associations shall be subject to the applicable provisions of the following sections of this title:

- (1) Section 27-4-1;
- (2) Section 27-4-2;
- (3) Section 27-4-3;
- (4) Section 27-4-5;
- (5) Section 27-4-7;
- (6) Section 27-4-8; and
- (7) Section 27-4-9.

(b) A mutual aid association shall be deemed to be an "insurer" for the purposes, and within the terms, of the sections referred to in subsection (a) of this section.

§27-30-32. Applicability of chapter 8.

Persons representing or aiding a mutual aid association in the solicitation of business and the mutual aid association with respect thereto shall be subject to the provisions of chapter 8 of this title.

§27-30-33. Applicability of other provisions.

In addition to those contained or referred to in this chapter, the following chapters and sections of this title shall apply to mutual aid associations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of such express provisions:

- (1) Chapter 1;
- (2) Chapter 2;
- (3) The following sections:
 - a. Section 27-3-4;
 - b. Section 27-3-5;
 - c. Section 27-3-22;
 - d. Section 27-3-23;
 - e. Section 27-3-27;
 - f. Section 27-3-29; and
 - g. Section 27-4-2;
- (4) The following section of chapter 5: section 27-5-12;
- (5) The following sections of chapters 36 and 37:
 - a. Section 27-37-1;
 - b. Section 27-37-3;
 - c. Section 27-37-2;
 - d. Section 27-37-4;
 - e. Section 27-36-1, except subdivision (4) thereof;
 - f. Section 27-36-6; and
 - g. Sections 27-37-5 through 27-37-9;
- (6) Chapter 10;

(7) Chapter 12;

(8) Chapter 14, except as to the following sections: sections 27-14-8, 27-14-9, 27-14-29 and 27-14-32;

(9) Chapter 15;

(10) Chapter 16;

(11) Chapter 17;

(12) Chapter 18;

(13) Chapter 19;

(14) Chapter 20;

(15) Chapter 27, except the following sections:

a. Section 27-27-15;

b. Section 27-27-20;

c. Section 27-27-23; and

d. Sections 27-27-34 through 27-27-36.

(16) Chapter 32.

§27-30-34. Provision of domestic life and disability insurance pursuant to chapter 3.

Mutual aid associations organized and authorized under the provisions of this chapter are, in addition to those authorizations and responsibilities stated in sections 27-17-16, 27-30-1, 27-30-31, 27-30-33 and 27-36-7, entitled to provide insurance policies and contracts as are authorized domestic life and disability insurers pursuant to chapter 3 of Title 27, subject to the limits on the size and types of risks to be insured as stated in section 27-30-15 and section 27-30-6.1.

§27-31-1. Definitions.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section.

(1) **RECIPROCAL INSURANCE.** Insurance resulting from an interexchange among persons, known as "subscribers," of reciprocal agreements of indemnity, the interexchange being effectuated through an "attorney-in-fact" common to all such persons.

(2) **RECIPROCAL INSURER.** An unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact to provide reciprocal insurance among themselves.

§27-31-2. Applicability of chapter.

(a) All authorized reciprocal insurers shall be governed by those sections of this chapter not expressly made applicable to domestic reciprocals.

(b) Existing authorized reciprocal insurers shall, after January 1, 1972, comply with the provisions of this chapter and shall make such amendments to their subscribers' agreement, power of attorney, policies and other documents and accounts and perform such other acts as may be required for such compliance.

§27-31-3. Powers generally.

(a) A reciprocal insurer may, upon qualifying therefor as provided for by this title, transact any kind or kinds of insurance defined by this title, other than life or title insurances.

(b) Such an insurer may purchase reinsurance upon the risk of any subscriber and may grant reinsurance as to any kind of insurance it is authorized to transact directly.

§27-31-4. Business name; actions.

A reciprocal insurer shall:

(1) Have and use a business name. The name shall include the word "reciprocal," or "interinsurer," or "interinsurance," or "exchange," or "underwriters" or "underwriting"; and

(2) Maintain actions and have actions maintained against it in its own name.

§27-31-5. Attorneys.

(a) "Attorney," as used in this chapter, refers to the attorney-in-fact of a reciprocal insurer. The attorney may be an individual, firm or corporation.

(b) Contracts of the insurer, including its policies, shall be executed by the attorney, duly authorized and acting for the subscribers.

(c) The attorney of a foreign or alien reciprocal insurer, which insurer is duly authorized to transact insurance in this state, shall not, by virtue of discharge of its duties as such attorney with respect to the insurer's transactions in this state, be thereby deemed to be doing business in this state within the meaning of any laws of this state applying to foreign firms or corporations.

§27-31-6. Surplus funds of domestic insurer.

(a) A domestic reciprocal insurer formed under this chapter, if it has otherwise complied with the applicable provisions of this title, may be authorized to transact insurance if it has, and thereafter maintains, surplus funds as follows:

(1) To transact property insurance, surplus funds of not less than \$200,000.00; and

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(2) To transact casualty insurance, surplus funds of not less than \$300,000.00.

(b) In addition to surplus required to be maintained under subsection (a) of this section, the insurer shall have, when first so authorized, expendable surplus in amount as required of a like foreign reciprocal insurer under section 27-3-8.

(c) A domestic reciprocal insurer may be authorized to transact additional kinds of insurance if it has otherwise complied with the provisions of this title therefor and possesses and so maintains surplus funds in amount equal to the minimum capital stock required of a stock insurer for authority to transact a like combination of kinds of insurance, but subject to subsection (b) of section 27-3-8 as to additional kinds of insurance and surplus required therefor during the first five years.

§27-31-7. Certificate of authority -- Application by domestic insurer; contents of declaration.

(a) Twenty-five or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the commissioner for a certificate of authority to transact insurance.

(b) The proposed attorney shall fulfill the requirements of and shall execute and file with the commissioner when applying for a certificate of authority a declaration setting forth:

(1) The name of the insurer;

(2) The location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;

(3) The kinds of insurance proposed to be transacted;

(4) The names and addresses of the original subscribers;

(5) The designation and appointment of the proposed attorney and a copy of the power of attorney;

(6) The names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

(7) The powers of the subscribers' advisory committee and the names and terms of office of the members thereof;

(8) That all moneys paid to the reciprocal shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(9) A copy of the subscribers' agreement;

(10) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted and that the insurer has

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received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months, at an adequate rate theretofore filed with and approved by the commissioner;

(11) A statement of the financial condition of the insurer, a schedule of its assets and a statement that the surplus as required by section 27-31-6 is on hand; and

(12) A copy of each policy, endorsement and application form it then proposes to issue or use.

Such declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds.

§27-31-8. Same – Issuance; refusal, suspension or revocation.

(a) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(b) The commissioner may refuse, suspend or revoke the certificate of authority, in addition to other grounds therefor, for failure of the attorney to comply with any provision of this title.

§27-31-9. Power of attorney.

(a) The rights and powers of the attorney of a reciprocal insurer shall be as provided in the power of attorney given it by the subscribers.

(b) The power of attorney must set forth:

(1) The powers of the attorney;

(2) That the attorney is empowered to accept service of process on behalf of the insurer in actions against the insurer upon contracts exchanged;

(3) The general services to be performed by the attorney;

(4) The maximum amount to be deducted from advance premiums or deposits to be paid to the attorney and the general items of expense in addition to losses, to be paid by the insurer; and

(5) Except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount, which amount shall be not less than one nor more than 10 times the premium or premium deposit stated in the policy.

(c) The power of attorney may:

(1) Provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;

(2) Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;

(3) Provide for the exercise of any right reserved to the subscribers directly or through their advisory committee; and

(4) Contain other lawful provisions deemed advisable.

(d) The terms of any power of attorney, or agreement collateral thereto, shall be reasonable and equitable.

§27-31-10. Modifications of subscribers' agreement or power of attorney of domestic insurer.

Modifications of the terms of the subscribers' agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by the attorney and the subscribers' advisory committee. No such modification shall be effective retroactively nor as to any insurance contract issued prior thereto.

§27-31-11. Bond of attorney of domestic insurer – Requirements.

(a) Concurrently with the filing of the declaration provided for in section 27-31-7, the attorney of a domestic reciprocal insurer shall file with the commissioner a bond in favor of this state for the benefit of all persons damaged as a result of breach by the attorney of the conditions of his bond as set forth in subsection (b) of this section. The bond shall be executed by the attorney and by an authorized corporate surety and shall be subject to the commissioner's approval.

(b) The bond shall be in the penal sum of \$25,000.00, aggregate in form, conditioned that the attorney will faithfully account for all moneys and other property of the insurer coming into his hands and that he will not withdraw or appropriate to his own use from the funds of the insurer any moneys or property to which he is not entitled under the power of attorney.

(c) The bond shall provide that it is not subject to cancellation unless 30 days' advance notice in writing of cancellation is given both the attorney and the commissioner.

§27-31-12. Same – Deposit in lieu thereof.

In lieu of the bond required under section 27-31-11, the attorney may maintain on deposit with the state treasurer, through the office of the commissioner, a like amount in cash or in value of securities qualified for deposit under section 27-6-3, and subject to the same conditions as the bond.

§27-31-13. Action on bond or deposit in lieu thereof.

Action on the attorney's bond or to recover against any such deposit made in lieu thereof may be brought at any time by one or more subscribers suffering loss through a violation of its conditions, or by a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in, and become part of, the insurer's funds. The total aggregate liability of the surety shall be limited to the amount of the penalty of such bond.

§27-31-14. Service of process on domestic insurer; judgment thereon.

(a) Legal process shall be served upon a domestic reciprocal insurer by serving the insurer's attorney at his principal offices or by serving the commissioner as the insurer's process agent under sections 27-3-24 and 27-3-25.

(b) Any judgment based upon legal process so served shall be binding upon each of the insurer's subscribers as their respective interests may appear, but in an amount not exceeding their respective contingent liabilities, if any, the same as though personal service of process was had upon each such subscriber.

§27-31-15. Advancement of funds to domestic insurers.

The attorney or other parties may advance to a domestic reciprocal insurer, upon reasonable terms, such funds as it may require, from time to time, in its operations. Sums so advanced shall not be treated as a liability of the insurer and, except upon liquidation of the insurer, shall not be withdrawn or repaid except out of the insurer's realized earned surplus in excess of its minimum required surplus. No such withdrawal or repayment shall be made without the advance approval of the commissioner. This section does not apply to bank loans or to other loans made upon security.

§27-31-16. Annual statement; supplemental information.

(a) The annual statement of a reciprocal insurer shall be made and filed by its attorney.

(b) The statement shall be supplemented by such information as may be required by the commissioner relative to the affairs and transactions of the attorney, insofar as they relate to the reciprocal insurer.

§27-31-17. Determination of financial condition.

In determining the financial condition of a reciprocal insurer, the commissioner shall apply the following rules:

(1) He shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis;

(2) The surplus deposits of subscribers shall be allowed as assets, except that any premium deposits delinquent for 90 days shall first be charged against such surplus deposit;

(3) The surplus deposits of subscribers shall not be charged as a liability;

(4) All premium deposits delinquent less than 90 days shall be allowed as assets;

(5) An assessment levied upon subscribers and not collected shall not be allowed as an asset;

(6) The contingent liability of subscribers shall not be allowed as an asset;
and

(7) The computation of reserves shall be based upon premium deposits, other than membership fees, and without any deduction for expenses and the compensation of the attorney.

§27-31-18. Subscribers; exchange of insurance contracts; liability of representatives.

Individuals, partnerships and corporations of this state may make application, enter into agreement for, and hold, policies or contracts in, or with, and be a subscriber of any domestic, foreign or alien reciprocal insurer. Any corporation now or hereafter organized under the laws of this state shall, in addition to the rights, powers and franchises specified in its articles of incorporation, have full power and authority as a subscriber to exchange insurance contracts through such reciprocal insurer. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and to be as fully granted as the rights and powers expressly conferred upon such corporations. Government or governmental agencies, state or political subdivisions thereof, boards, associations, estates, trustees or fiduciaries are authorized to exchange nonassessable reciprocal interinsurance contracts with each other and with individuals, partnerships and corporations to the same extent that individuals, partnerships and corporations are authorized in this section to exchange reciprocal interinsurance contracts. Any officer, representative, trustee, receiver or legal representative of any such subscriber shall be recognized as acting for, or on its behalf for, the purpose of such contract, but shall not be personally liable upon such contract by reason of acting in such representative capacity.

§27-31-19. Subscribers' advisory committee of domestic insurer.

(a) The advisory committee of a domestic reciprocal insurer exercising the subscribers' rights shall be selected under such rules as the subscribers adopt.

(b) Not less than two thirds of such committee shall be subscribers other than the attorney or any person employed by, representing or having a financial interest in the attorney.

(c) The committee shall:

(1) Supervise the finances of the insurer;

(2) Supervise the insurer's operations to such extent as to assure conformity with the subscriber's agreement and power of attorney;

(3) Procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer; and

(4) Have such additional powers and functions as may be conferred by the subscribers' agreement.

§27-31-20. Liability of subscribers -- Generally.

(a) The liability of each subscriber, other than as to a nonassessable policy, for the obligations of the reciprocal insurer shall be an individual, several and proportionate liability and not joint.

(b) Except as to a nonassessable policy, each subscriber shall have a contingent assessment liability, in the amount provided for in the power of attorney or in the subscribers' agreement, for payment of actual losses and expenses incurred while his policy was in force. Such contingent liability may be at the rate of not less than one nor more than 10 times the premium or premium deposit stated in the policy, and the maximum aggregate thereof shall be computed in the manner set forth in section 27-31-24.

(c) Each assessable policy issued by the insurer shall contain a statement of the contingent liability.

§27-31-21. Same -- Judgment.

(a) No action shall lie against any subscriber upon any obligation claimed against the insurer until a final judgment has been obtained against the insurer and remains unsatisfied for 30 days.

(b) Any such judgment shall be binding upon each subscriber only in such proportion as his interests may appear and in amount not exceeding his contingent liability, if any.

§27-31-22. Levy of assessments on subscribers of domestic insurers -- Generally.

(a) Assessments may from time to time be levied upon subscribers of a domestic reciprocal insurer liable therefor under the terms of their policies by the attorney upon approval in advance by the subscribers' advisory committee and the commissioner or by the commissioner in liquidation of the insurer.

(b) Each subscriber's share of a deficiency for which an assessment is made, but not exceeding in any event his aggregate contingent liability as computed in accordance with section 27-31-24, shall be computed by applying to the premium earned on the subscriber's policy, or policies, during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment.

(c) In computing the earned premiums for the purposes of this section, the gross premium received by the insurer for the policy shall be used as base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy.

(d) No subscriber shall have an offset against any assessment for which he is liable on account of any claim for unearned premium or losses payable.

§27-31-23. Same -- Time limit.

Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for and shall pay his share of, any assessment, as computed and limited in accordance with this chapter, if:

(1) While his policy is in force or within one year after its termination, he is notified by either the attorney or the commissioner of his intentions to levy such assessment; or

(2) An order to show cause why a receiver, conservator, rehabilitator or liquidator of the insurer should not be appointed is issued while his policy is in force or within one year after its termination.

§27-31-24. Same -- Aggregate liability.

No one policy or subscriber as to such policy shall be assessed or charged with an aggregate of contingent liability as to obligations incurred by a domestic reciprocal insurer in any one calendar year in excess of the amount provided for in the power of attorney or in the subscribers' agreement, computed solely upon premium earned on such policy during that year.

§27-31-25. Nonassessable policies.

(a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital stock required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee, the commissioner shall issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state and to omit provisions imposing contingent liability in all policies delivered, or issued for delivery, in this state for so long as all such surplus remains unimpaired.

(b) Upon impairment of such surplus, the commissioner shall forthwith revoke the certificate. Such revocation shall not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after such revocation, no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

(c) The commissioner shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued unless it qualifies to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it; except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire such policies in such state and need not extinguish the contingent liability applicable to policies theretofore in force in such state.

§27-31-26. Distribution of unused premiums, etc.

A reciprocal insurer may from time to time return to its subscribers any unused premiums, savings or credits accruing to their accounts. Any such distribution shall not unfairly discriminate between classes of risks or policies or between subscribers, but such distribution may vary as to classes of subscribers, based upon the loss experience of such subscribers.

§27-31-27. Distribution of assets upon liquidation of domestic insurer.

Upon the liquidation of a domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy obligations, the return of any contributions of the attorney or other persons to its surplus made as provided in section 27-31-15, and the return of any unused premium, savings or credits then standing on subscribers' accounts shall be distributed to its subscribers who were such within the 12 months prior to the last termination of its certificate of authority, according to such reasonable formula as the commissioner may approve.

§27-31-28. Merger or conversion of domestic insurer.

(a) A domestic reciprocal insurer, upon affirmative vote of not less than two thirds of its subscribers who vote on such merger, pursuant to due notice and the approval of the commissioner of the terms therefor, may merge with another reciprocal insurer or be converted to a stock or mutual insurer.

(b) Such a stock or mutual insurer shall be subject to the same capital or surplus requirements and shall have the same rights as a like domestic insurer transacting like kinds of insurance.

(c) The commissioner shall not approve any plan for such merger or conversion which is inequitable to subscribers or which, if for conversion to a stock insurer, does not give each subscriber preferential right to acquire stock of the proposed insurer proportionate to his interest in the reciprocal insurer, as determined in accordance with section 27-31-27 and a reasonable length of time within which to exercise such right.

§27-31-29. Proceedings when assets of insurer insufficient.

(a) If the assets of a reciprocal insurer are at any time insufficient to discharge its liabilities, other than any liability on account of funds contributed by the attorney or others, and to maintain the required surplus, its attorney shall forthwith make up the deficiency or levy an assessment upon the subscribers for the amount needed to make up the deficiency, but subject to the limitation set forth in the power of attorney or policy.

(b) If the attorney fails to make up such deficiency or to make the assessment within 30 days after the commissioner orders him to do so or if the deficiency is not fully made up within 60 days after the date the assessment was made, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this title.

(c) If liquidation of such an insurer is ordered, an assessment shall be levied upon the subscribers for such an amount, subject to limits as provided by this chapter, as the commissioner determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds contributed by the attorney or other persons, but including the reasonable cost of the liquidation.

§27-32-1. Definitions.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **IMPAIRMENT or INSOLVENCY.** The capital of a stock insurer, the net assets of a Lloyd's plan insurer or the surplus of a mutual or reciprocal insurer shall be deemed to be impaired and the insurer shall be deemed to be insolvent when such insurer is not possessed of assets at least equal to all liabilities and required reserves, together with its total issued and outstanding capital stock, if a stock insurer, or the minimum surplus, if a Lloyd's plan, mutual or reciprocal insurer, required by this title to be maintained for the kind or kinds of insurance it is then authorized to transact.

(2) **INSURER.** Any person, firm, corporation, association or aggregation of persons doing an insurance business and subject to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization or conservation by, the commissioner, or the equivalent insurance supervisory official of another state.

(3) **DELINQUENCY PROCEEDING.** Any proceeding commenced against any insurer pursuant to this chapter for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer.

(4) **STATE.** Any state of the United States and also the District of Columbia and Puerto Rico.

(5) **FOREIGN COUNTRY.** Such term means territory not in any state.

(6) **DOMICILIARY STATE.** The state in which an insurer is incorporated or organized or, in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has, at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States, and any such insurer is deemed to be domiciled in such state.

(7) **ANCILLARY STATE.** Any state other than a domiciliary state.

(8) **RECIPROCAL STATE.** Any state other than this state in which in substance and effect the provisions of the Uniform Insurers Liquidation Act, as defined in section 27-32-22, are in force, including the provisions requiring that the commissioner of insurance or equivalent insurance supervisory official be the receiver of a delinquent insurer.

(9) **GENERAL ASSETS.** All property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property, the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

(10) **PREFERRED CLAIM.** Any claim with respect to which the law of the state or of the United States accords priority of payments from the general assets of the insurer.

(11) **SPECIAL DEPOSIT CLAIM.** Any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

(12) **SECURED CLAIM.** Any claim secured by mortgage, trust deed, pledge, deposit as security, escrow or otherwise, but not including a special deposit claim or claims against general assets. The term also includes claims which more than four months prior to the commencement of delinquency proceedings in the state of the insurer's domicile have become liens upon specific assets by reason of judicial process.

(13) **RECEIVER.** Such term means receiver, liquidator, rehabilitator or conservator as the context may require.

§27-32-2. Purpose of chapter; construction thereof.

The purpose of this chapter is to promote effectiveness, economy and uniformity in the rehabilitation, reorganization, conservation and liquidation of insurers doing business in this state. It is intended that this chapter shall be liberally construed to the end so far as possible that the assets of such insurers shall be effectively conserved and that, in the case of insurers transacting business in more than one state, claimants against the insurer shall receive equal and uniform treatment irrespective of residence or the place of the acts or contracts upon which their claims are based.

§27-32-3. Delinquency proceedings -- Jurisdiction; venue; appeal.

(a) The circuit court shall have original jurisdiction of delinquency proceedings under this chapter, and any court with jurisdiction is authorized to make all necessary and proper orders to carry out the purposes of this chapter.

(b) The venue of delinquency proceedings against a domestic insurer shall be in the county of the insurer's principal place of business. The venue of such proceedings against foreign and alien insurers shall be in the circuit court of Montgomery county.

(c) At any time after the commencement of a proceeding under this chapter, the commissioner may apply to the court for an order changing the venue of and removing the proceedings to Montgomery county or to any other county of this state in which he deems that such proceeding may be most economically and efficiently conducted.

(d) Delinquency proceedings pursuant to this chapter shall constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing or conserving an insurer. No person other than the commissioner and the attorney general representing him shall appear in the courts of this state requesting the appointment of a receiver or otherwise commence such delinquency proceedings to take over, liquidate, rehabilitate, reorganize or conserve an insurer, and no court shall

entertain a petition for the commencement of such proceedings unless the same has been filed in the name of the state on the relation of the commissioner.

(e) An appeal shall lie to the supreme court of Alabama from an order granting or refusing rehabilitation, liquidation or conservation and from every order in delinquency proceedings having the character of a final order or judgment as to the particular portion of the proceedings embraced therein.

§27-32-4. Same -- Commencement; grant or denial of application.

The commissioner shall commence any such proceedings by application to the court for an order directing the insurer to show cause why the commissioner should not have the relief requested. On the hearing of such order to show cause, the court shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of the policyholders, creditors, stockholders, members, subscribers or the public may require.

§27-32-5. Injunctions and restraining orders.

(a) Upon application by the commissioner for such an order to show cause, or at any time thereafter, the court may, without notice, issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

(b) The court may, at any time during a proceeding under this chapter, issue such other injunctions or orders as may be deemed necessary to prevent interference with the commissioner or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments or other liens or the making of any levy against the insurer or against its assets or any part thereof.

(c) Notwithstanding any other provision of law, no bond shall be required of the commissioner as a prerequisite for the issuance of any injunction or restraining order pursuant to this section.

§27-32-6. Grounds -- Rehabilitation of domestic insurers.

The commissioner may apply to the court for an order appointing him as receiver of, and directing him to rehabilitate, a domestic insurer upon one or more of the following grounds. That the insurer:

(1) Is impaired or insolvent;

(2) Has refused to submit any of its books, records, accounts or affairs to reasonable examination by the commissioner;

(3) Has concealed or removed records or assets or otherwise violated section 27-27-29;

(4) Has failed to comply with an order of the commissioner to make good an impairment of capital or surplus, or both;

(5) Has transferred, or attempted to transfer, substantially its entire property or business or has entered into any transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without having first obtained the written approval of the commissioner;

(6) Has willfully violated its charter or articles of incorporation or any law of this state;

(7) Has an officer, director or manager who has refused to be examined under oath concerning its affairs, for which purposes the commissioner is hereby authorized to conduct and to enforce by all appropriate and available means any such examination under oath in any other state or territory of the United States in which any such officer, director or manager may then presently be, to the full extent permitted by the laws of such other state or territory, this special authorization considered;

(8) Has been or is the subject of an application for the appointment of, a receiver, trustee, custodian or sequestrator of the insurer or its property otherwise than pursuant to the provisions of this title, but only if such appointment has been made or is imminent and its effect is, or would be, to oust the courts of this state of jurisdiction under this section;

(9) Has consented to such an order through a majority of its directors, stockholders, members or subscribers; or

(10) Has failed to pay a final judgment entered against it in this state upon any insurance contract issued or assumed by it, within 30 days after the judgment became final, or within 30 days after the time for taking an appeal has expired or within 30 days after dismissal of an appeal before final termination, whichever date is the later.

§27-32-7. Same -- Liquidation of domestic or alien insurers.

The commissioner may apply to the court for an order appointing him as receiver, if his appointment as receiver shall not be then in effect, and directing him to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this state, regardless of whether or not there has been a prior order directing him to rehabilitate such insurer, upon any of the grounds specified in section 27-32-6, or if such insurer:

(1) Has ceased transacting business for a period of one year; or

(2) Is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter or to procure the appointment of a receiver, trustee, custodian or sequestrator under any law except this title.

§27-32-8. Same -- Conservation of assets -- Foreign insurers.

The commissioner may apply to the court for an order appointing him as receiver, or ancillary receiver, and directing him to conserve the assets within this state of a foreign insurer upon any of the following grounds:

(1) Upon any of the grounds specified in sections 27-32-6 or 27-32-7; or

(2) Upon the ground that its property has been sequestered in its domiciliary sovereignty or in any other sovereignty.

§27-32-9. Same -- Same -- Alien insurers.

The commissioner may apply to the court for an order appointing him as receiver, or ancillary receiver, and directing him to conserve the assets within this state of any alien insurer upon any of the following grounds:

(1) Upon any of the grounds specified in sections 27-32-6 or 27-32-7;

(2) Upon the ground that the insurer has failed to comply, within the time designated by the commissioner, with an order made by him to make good an impairment of its trusted funds; or

(3) Upon the ground that the property of the insurer has been sequestered in its domiciliary sovereignty or elsewhere.

§27-32-10. Same -- Ancillary liquidation of foreign insurers.

The commissioner may apply to the court for an order appointing him as ancillary receiver of, and directing him to liquidate, the business of a foreign insurer having assets, business or claims in this state upon the appointment in the domiciliary state of such insurer of a receiver, liquidator, conservator, rehabilitator or other officer by whatever name called for the purpose of liquidating the business of such insurer.

§27-32-11. Orders -- Rehabilitation of domestic insurers.

(a) An order to rehabilitate a domestic insurer shall direct the commissioner forthwith to take possession of the property of the insurer and to conduct the business thereof and to take such steps toward removal of the causes and conditions which have made rehabilitation necessary as the court may direct.

(b) If at any time the commissioner deems that further efforts to rehabilitate the insurer would be useless, he may apply to the court for an order of liquidation.

(c) The commissioner or any interested person, upon due notice to the commissioner, at any time may apply to the court for an order terminating the rehabilitation proceedings and permitting the insurer to resume possession of its property and the conduct of its business, but no such order shall be made or entered except when, after a hearing, the court has determined that the purposes of the proceeding have been fully accomplished.

§27-32-12. Same -- Liquidation -- Domestic insurers.

(a) An order to liquidate the business of a domestic insurer shall direct the commissioner forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as commissioner of insurance or in the name of the insurer as the court may

direct and to give notice to all creditors who may have claims against the insurer to present such claims.

(b) The commissioner may apply for and secure an order dissolving the corporate existence of a domestic insurer upon his application for an order of liquidation of such insurer or at any time after such order has been granted.

§27-32-13. Same -- Same -- Alien insurers.

An order to liquidate the business of a United States branch of an alien insurer having trusteed assets in this state shall be in the same terms as those prescribed for domestic insurers, save and except only that the assets of the business of such United States branch shall be the only assets included therein.

§27-32-14. Conservation or liquidation of property.

(a) An order to conserve the assets of a foreign or alien insurer shall require the commissioner forthwith to take possession of the property of the insurer within this state and to conserve it, subject to the further direction of the court.

(b) An order to liquidate the assets in this state of a foreign insurer shall require the commissioner forthwith to take possession of the property of the insurer within this state and to liquidate it, subject to the orders of the court and with due regard to the rights and powers of the domiciliary receiver as provided in this chapter.

§27-32-15. Conduct of delinquency proceedings -- Domestic and alien insurers.

(a) Whenever under this chapter a receiver is to be appointed in delinquency proceedings for a domestic or alien insurer, the court shall appoint the commissioner as such receiver. The court shall order the commissioner forthwith to take possession of the assets of the insurer and to administer the same under the orders of the court.

(b) As a domiciliary receiver, the commissioner shall be vested by operation of law with the title to all of the property, contracts and rights of action and all of the books and records of the insurer, wherever located, as of the date of entry of the order directing him to rehabilitate or liquidate a domestic insurer or to liquidate the United States branch of an alien insurer domiciled in this state, and he shall have the right to recover the same and reduce the same to possession; except, that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are prescribed in this section for ancillary receivers appointed in this state as to assets located in this state.

(c) The recording of a certified copy of the order directing possession to be taken, or a certified copy thereof, in the office of the judge of probate of the county where the proceedings are pending shall impart the same notice as would be imparted by a deed, bill of sale or other evidence of title duly filed or recorded.

(d) The commissioner as domiciliary receiver shall be responsible for the proper administration of all assets coming into his possession or control. The court may at any time require a bond from him or his deputies if deemed desirable for the protection of such assets.

(e) Upon taking possession of the assets of an insurer, the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by this chapter for the purpose of rehabilitating, liquidating or conserving the affairs or assets of the insurer.

(f) In connection with delinquency proceedings, the commissioner may appoint one or more special deputy commissioners to act for him, and he may employ such counsel, clerks and assistants as he deems necessary. The compensation of the special deputies, counsel, clerks or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of duties imposed upon them, special deputies shall possess all the powers given to and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceedings.

§27-32-16. Same -- Foreign insurers.

(a) Whenever under this chapter an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this state, the court shall appoint the commissioner as ancillary receiver. The commissioner shall file a petition requesting the appointment on the grounds set forth in section 27-32-10:

(1) If he finds that there are sufficient assets of the insurer located in this state to justify the appointment of an ancillary receiver; or

(2) If 10 or more persons, resident in this state, having claims against such insurer, file a petition with the commissioner requesting the appointment of such ancillary receiver.

(b) The domiciliary receiver, for the purpose of liquidating an insurer domiciled in a reciprocal state, shall be vested by operation of law with the title to all of the property, contracts and rights of action and all of the books and records of the insurer located in this state, and he shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this state. He shall also be entitled to recover the other assets of the insurer located in this state; except, that upon the appointment of an ancillary receiver in this state, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this state and shall pay the necessary expenses of the proceedings. All remaining assets he shall promptly transfer to the domiciliary receiver. Subject to the foregoing provisions, the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of such assets as a receiver of an insurer domiciled in this state.

(c) The domiciliary receiver of an insurer domiciled in a reciprocal state may maintain an action in this state to recover any assets of such insurer to which he may be entitled under the laws of this state.

§27-32-17. Claims in delinquency proceedings -- Nonresidents against domestic insurers.

(a) In a delinquency proceeding begun in this state against a domestic insurer, claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in reciprocal states may either:

(1) Be proved in this state; or

(2) If ancillary proceedings have been commenced in such reciprocal states, may be proved in those proceedings. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appear and be heard is afforded the domiciliary receiver of this state as provided in section 27-32-18 with respect to ancillary proceedings in this state, the final allowance of such claim by the courts in the ancillary state shall be accepted in this state as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.

§27-32-18. Same -- Residents against foreign insurers.

(a) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against such insurer who reside within this state may file claims either with the ancillary receiver, if any, appointed in this state or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in this state may either:

(1) Be proved in the domiciliary state as provided by the law of that state; or

(2) If ancillary proceedings have been commenced in this state, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this state, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered or certified mail or by personal service at least 40 days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based and the priorities asserted, if any. If the domiciliary receiver, within 30 days after the giving of such notice, shall give notice in writing to the ancillary receiver and to the claimant, either by registered or certified mail or by personal service, of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceeding in this state involving adjudication

of the claim. The final allowance of the claim by the courts of this state shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this state.

§27-32-19. Same – Form; time; notice and hearing; order.

(a) All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable detail the amount of the claim, or the basis upon which such amount can be ascertained, the facts upon which the claim is based and the priorities asserted, if any. All such claims shall be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and shall be supported by such documents as may be material thereto.

(b) All claims filed in this state shall be filed with the receiver, whether domiciliary or ancillary, in this state on or before the last date for filing as specified in this chapter.

(c) Within 10 days of the receipt of any claim or within such further period as the court may, for good cause shown, fix, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court shall determine to such persons as shall appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.

(d) At the hearing, all persons interested shall be entitled to appear, and the court shall enter an order allowing, allowing in part or disallowing the claim. Any such order shall be deemed to be an appealable order.

§27-32-20. Same – Priorities.

(a) In a delinquency proceeding against an insurer domiciled in this state, claims owing to residents of ancillary states shall be preferred claims if like claims are preferred under the laws of this state. All such claims owing to residents or nonresidents shall be given equal priority of payment from general assets regardless of where such assets are located.

(b) In a delinquency proceeding against an insurer domiciled in a reciprocal state, claims owing to residents of this state shall be preferred if like claims are preferred by the laws of that state.

(c) The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other state shall be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such sharing shall

be deferred until general creditors and also claimants against other special deposits who have received smaller percentages from their respective special deposits have been paid percentages of their claims equal to the percentage paid from the special deposit.

(d) The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this chapter or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amounts shall be conclusive; otherwise, the amount shall be determined in the delinquency proceeding in the domiciliary state.

§27-32-21. Attachment, garnishment and execution.

During the pendency of delinquency proceedings in this or any reciprocal state, no action or proceeding in the nature of an attachment, garnishment or execution shall be commenced or maintained in the courts of this state against the delinquent insurer or its assets. Any lien obtained by any such action or proceeding within four months prior to the commencement of any such delinquency proceeding, or at any time thereafter, shall be void as against any rights arising in such delinquency proceeding.

§27-32-22. Uniform Insurers Liquidation Act.

(a) Subdivisions (2) through (13) of section 27-32-1, together with sections 27-32-4, 27-32-5 and 27-32-15 through 27-32-22 constitute, and may be referred to as, the Uniform Insurers Liquidation Act.

(b) The Uniform Insurers Liquidation Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it. To the extent that its provisions when applicable conflict with other provisions of this chapter, the provisions of such act shall control.

§27-32-23. Deposit of moneys collected.

The moneys collected by the commissioner in a proceeding under this chapter shall be from time to time deposited in one or more state or national banks, savings banks or trust companies; and, in the case of the insolvency or voluntary or involuntary liquidation of any such depository which is an institution organized and supervised under the laws of this state, such deposits shall be entitled to priority of payment on an equality with any other priority given by the banking laws of this state. The commissioner may, in his discretion, deposit such moneys, or any part thereof, in a national bank or trust company as a trust fund.

§27-32-24. Exemption of commissioner from fees.

The commissioner shall not be required to pay any fee to any public officer in this state for filing, recording or issuing a transcript or certificate or

authenticating any paper or instrument pertaining to the exercise by the commissioner of any of the powers or duties conferred upon him under this chapter, whether or not such paper or instrument be executed by the commissioner or his deputies, employees or attorneys of record and whether or not it is connected with the commencement of any action or proceeding by or against the commissioner or with the subsequent conduct of such action or proceeding.

§27-32-25. Loans to facilitate rehabilitation, etc., of insurer.

For the purpose of facilitating the rehabilitation, liquidation, conservation or dissolution of an insurer pursuant to this chapter, the commissioner may, subject to the approval of the court, borrow money and execute, acknowledge and deliver notes, or other evidences of indebtedness therefor, and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust or hypothecation of any, or all, of the property, whether real, personal or mixed, of such insurer, and the commissioner, subject to the approval of the court, shall have power to take any and all other action necessary and proper to consummate any such loan and to provide for the repayment thereof. The commissioner shall be under no obligation personally or in his official capacity to repay any loan made pursuant to this section.

§27-32-26. Fixation of rights and liabilities on liquidation of insurer.

The rights and liabilities of the insurer and of its creditors, policyholders, stockholders, members, subscribers and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date on which the order directing the liquidation of the insurer is filed in the office of the clerk of the court which made the order, subject to the provisions of this chapter with respect to the rights of claimants holding contingent claims.

§27-32-27. Voidable transfers and liens.

(a) Any transfer of, or lien upon, the property of an insurer which is made or created within four months prior to the granting of an order to show cause under this chapter with the intent of giving to any creditor a preference or of enabling him to obtain a greater percentage of his debt than any other creditor of the same class and which is accepted by such creditor, having reasonable cause to believe that such preference will occur, shall be voidable.

(b) Every director, officer, employee, stockholder, member, subscriber and any other person acting on behalf of such insurer who shall be concerned in any such act or deed and every person receiving thereby any property of such insurer of the benefit thereof shall be personally liable therefor and shall be bound to account to the commissioner.

(c) The commissioner, as receiver in any proceeding under this chapter, may avoid any transfer of, or lien upon, the property of an insurer which any creditor, stockholder, subscriber or member of such insurer might have avoided and may recover the property so transferred, unless such person was a bona fide holder for value prior to the date of the entering of an order to show cause under this chapter. Such property or its value may be recovered from anyone who has received it, except a bona fide holder for value as specified in this section.

§27-32-28. Priority of compensation owing employees of insurer.

(a) Compensation actually owing to employees other than officers of an insurer, for services rendered within three months prior to the commencement of a proceeding against the insurer under this chapter, but not exceeding \$500.00 for each employee, shall be paid prior to the payment of any other debt or claim and, in the discretion of the commissioner, may be paid as soon as practicable after the proceeding has been commenced; except, that at all times, the commissioner shall reserve such funds as will in his opinion be sufficient for the expenses of administration.

(b) Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of such employees.

§27-32-29. Setoff of credits and debts.

(a) In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this chapter, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in subsection (b) of this section.

(b) No offset shall be allowed in favor of any such person where:

(1) The obligation of the insurer to such person would not at the date of the entry of any liquidation order or otherwise, as provided in section 27-32-26, entitle him to share as a claimant in the assets of the insurer;

(2) The obligation of the insurer to such person was purchased by, or transferred to, such person with a view of its being used as an offset; or

(3) The obligation of such person is to pay an assessment levied against the members of a mutual insurer or against the subscribers of a reciprocal insurer or is to pay a balance upon the subscription to the capital stock of a stock insurer.

§27-32-30. Claims upon liquidation of insurer – Allowance.

(a) No contingent and unliquidated claim shall share in a distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made pursuant to this chapter; except, that such claim shall be considered, if properly presented, and may be allowed to share where:

(1) Such claim becomes absolute against the insurer on or before the last day for filing claims against the assets of such insurer; or

(2) There is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent.

(b) Where an insurer has been so adjudicated to be insolvent, any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be allowed:

(1) If it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured;

(2) If such person shall furnish suitable proof, unless the court for good cause shown shall otherwise direct, that no further valid claim against such insurer arising out of his cause of action other than those already presented can be made; and

(3) If the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than its maximum liability would be were it not in liquidation.

(c) No judgment against such an insured taken after the date of entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability or of the amount of damages, and no judgment against an insured taken by default or by collusion prior to the entry of the liquidation order shall be considered as conclusive evidence in the liquidation proceedings, either of the liability of such insured to such person upon such cause of action or of the amount of damages to which such person is therein entitled.

(d) No claim of any secured claimant shall be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation or such other date set by the court for determining rights and liabilities as provided in section 27-32-26 unless the claimant shall surrender his security to the commissioner, in which event the claim shall be allowed in the full amount for which it is valued.

§27-32-31. Same -- Time to file.

(a) If, upon the granting of an order of liquidation under this chapter or at any time thereafter during the liquidation proceedings, the insurer shall not be clearly solvent, the court shall, after such notice and hearing as it deems proper, make an order declaring the insurer to be insolvent. Thereupon, regardless of any prior notice which may have been given to creditors, the commissioner shall notify all persons who may have claims against the insurer and who have not filed proper proofs thereof to present the same to him at a place specified in such notice, within four months from the date of entry of such order or, if the commissioner certifies that it is necessary, within such longer time as the court shall prescribe. The last day for filing of proofs of claims shall be specified in the notice, and notice shall be given in a manner to be determined by the court.

(b) Proofs of claim may be filed subsequent to the date specified if filed during pendency of the proceedings, but no such claim shall share in the distribution of the assets until all allowed claims, proofs of which have been filed before said date, have been paid in full with interest.

§27-32-32. Assessments -- Commissioner's report.

Within three years from the date an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer was filed in the office of the clerk of the court by which such order was made, the commissioner may make his report to the court setting forth:

- (1) The reasonable value of the assets of the insurer;
- (2) The insurer's probable liabilities; and
- (3) The probable necessary assessment, if any, to pay all claims and expenses in full, including expenses of administration.

§27-32-33. Same -- Levy.

(a) Upon the basis of the report provided for in section 27-32-32, including any amendments thereto, the court may, of its own motion, order the commissioner to levy one or more assessments against all members of such insurer who, as shown by the records of the insurer, were members, if a mutual insurer, or subscribers, if a reciprocal insurer, at any time within one year prior to the date of issuance of the order to show cause under section 27-32-4.

(b) Such assessment or assessments shall cover the excess of the probable liabilities over the reasonable value of the assets, together with the estimated cost of collection and percentage of uncollectability thereof. The total of all assessments against any member or subscriber with respect to any policy, whether levied pursuant to this chapter or pursuant to any other provision of law, shall be for no greater amount than that specified in the policy or policies of the member or subscriber; except, that if the court finds that the policy was issued at a rate or premium below the minimum rate lawfully permitted for the risk insured, the court may determine the upper limit of such assessment upon the basis of such minimum rate.

(c) No assessment shall be levied against any member or subscriber with respect to any nonassessable policy issued in accordance with sections 27-27-34 or 27-31-25.

§27-32-34. Same -- Order to pay -- Generally.

After levy of assessment as provided in section 27-32-33, upon the filing of a further detailed report by the commissioner, the court shall issue an order directing each member, if a mutual insurer, or each subscriber, if a reciprocal insurer, if he shall not pay the amount assessed against him to the commissioner on, or before, a day to be specified in the order, to show cause why he should not be held liable to pay such assessment, together with costs, as provided in section 27-32-36, and to show cause why the commissioner should not have judgment therefor.

§27-32-35. Same -- Same -- Publication and service.

The commissioner shall cause a notice of such assessment order, setting forth a brief summary of the contents of such order to be:

- (1) Published in such manner as shall be directed by the court; and
- (2) Enclosed in a sealed envelope, addressed and mailed postage prepaid to each member or subscriber liable thereunder at his last known address as appears on the records of the insurer, at least 20 days before the return of the order, to show cause provided for in section 27-32-34.

§27-32-36. Same -- Same -- Judgment.

(a) Upon the return day of the order to show cause provided for in section 27-32-34, if the member or subscriber does not appear and serve duly verified objections upon the commissioner, the court shall make an order adjudging that such member or subscriber is liable for the amount of the assessment against him, together with costs, and that the commissioner may have judgment against the member or subscriber therefor.

(b) If, on such return date, the member or subscriber appears and serves duly verified objections upon the commissioner, there shall be a full hearing before the court, which, after such hearing, shall make such order as the facts shall warrant.

(c) Any such order shall have the same force and effect, shall be entered and docketed and may be appealed from as if it were a judgment in an original action brought in the court in which the proceeding is pending.

§27-32-37. Priority of claims of policyholders and beneficiaries -- Established.

Upon the issuance of a proper court order placing a domestic insurer in receivership or placing a foreign insurer in ancillary receivership for rehabilitation or liquidation, pursuant to this chapter or other insurance laws of Alabama, all beneficiaries of and all persons holding or owning a contract of insurance with such insurer shall be a preferred creditor of said insurer to the extent of the equity, cash value or other benefit then accrued, arising under the terms of such contract. With the exception of costs of administration of said receiverships, recorded tax liens and judgments obtained prior to initiation of delinquency proceedings, and secured creditors' claims, no claim of a creditor shall be preferred over that of a policyholder of the insurer in receivership. Policyholders are hereby removed from the class of general creditors and all laws and court decisions in conflict herewith shall have no further application. This section and sections 27-32-38 through 27-32-41 shall apply to all policyholders of insurers in receivership on October 10, 1975, and to all future receiverships.

§27-32-38. Same -- Payment of claims.

Upon proper filing of claims pursuant to this title and upon order of the appropriate circuit court having jurisdiction of such cause after hearing, the duly appointed receiver shall make payment of claims upon liquidation of the insurer giving preference to policyholder claims as set out in section 27-32-37 in strict conformity to said court order.

§27-32-39. Same -- Reinsuring of policies.

When, upon hearing, the circuit court having jurisdiction of a receivership shall determine it to be in the best interest of the policyholders and the public, said court may order and direct the receiver to reinsure the policies of such insurer with a solvent insurer to the extent of the assets available in said receivership. The circuit court is hereby empowered to place a lien or moratorium against policy benefits and values as necessary to reinsure all policyholders as fully as possible

to the extent of assets available and to order the receiver to transfer such assets as determined adequate, necessary or available to reinsure policies of the insolvent insurer with a solvent insurer, to the exclusion of general creditors should no assets remain thereafter.

§27-32-40. Same -- Classification of policyholders and beneficiaries.

The circuit court having jurisdiction over a receivership for liquidation or rehabilitation pursuant to the insurance laws of this state may distinguish between classes of policyholders or beneficiaries and establish priorities for each such class for payment of claims, sharing in the assets remaining or for reinsurance purposes. In establishing priorities among classes of policyholders and beneficiaries, death claims payable on life insurance contracts, cash surrenders payable, annuity holders, paid up policies, single premium policies and other such classifications may be used by the court in establishing priorities for payment of claims or for reinsurance of policies.

§27-32-41. Same -- Liability of receiver.

A receiver of an insolvent insurer in liquidation or rehabilitation acting upon order of a circuit court having jurisdiction over said receivership shall not be liable to civil suit for obeying or carrying out the terms of such court order or in giving a preference to policyholders. Any such civil actions filed against a receiver shall be dismissed and barred upon a showing that the receiver was acting pursuant to court order or in conformity with sections 27-32-37 through 27-32-40.

§27-33-1. Applicability of chapter.

This chapter applies to all alien insurers using Alabama as a state of entry to transact insurance in the United States.

§27-33-2. Deposit of assets in trust.

(a) An alien insurer may use Alabama as a state of entry to transact insurance in the United States by making and maintaining in this state a deposit of assets in trust with a solvent bank or trust company approved by the commissioner.

(b) The deposit, together with other trust deposits of the insurer held in the United States for the same purpose, shall be in amount not less than the deposits required of an alien insurer under section 27-3-14 and shall consist of cash and/or securities eligible for the investment of the funds of like domestic insurers.

(c) Such a deposit may be referred to as "trusteed assets."

§27-33-3. Existing trusts.

All trusts of trusteed assets heretofore created and now existing shall be continued under the instruments creating them, unless inconsistent with the provisions of this chapter.

§27-33-4. Purpose and duration of trust.

The deposit required by section 27-33-2 shall be for the benefit, security and protection of the policyholders or policyholders and creditors of the insurer in the United States. It shall be maintained as long as there is outstanding any liability of the insurer arising out of its insurance transactions in the United States.

§27-33-5. Trust agreement – Requirement; approval by commissioner.

(a) The deposit referred to in section 27-33-2 shall be made under a written trust agreement between the insurer and the trustee, consistent with the provisions of this chapter, and shall be authenticated in such form and manner as the commissioner may designate or approve.

(b) The agreement shall not be effective until filed with and approved in writing by the commissioner. The commissioner shall not approve any trust agreement found by him not to be in compliance with the law or the terms of which do not in fact provide reasonably adequate protection for the insurer's policyholders or policyholders and creditors in the United States.

§27-33-6. Same – Authority to make and execute.

An alien insurer proposing to use Alabama as a state of entry to transact insurance in the United States, whether or not it is then authorized to transact insurance in this state, is authorized to make and execute any trust agreement required by this chapter.

§27-33-7. Same – Amendment.

A trust agreement may be amended, but the amendment shall not be effective until filed with and approved in writing by the commissioner as being in compliance with this chapter.

§27-33-8. Same – Withdrawal of approval.

The commissioner's approval of any trust agreement, or of any amendment thereof, may be withdrawn by the commissioner if he finds upon hearing, after notice thereof to the insurer and the trustee or trustees, that the requisites for such approval, as provided in this chapter, no longer exist.

§27-33-9. Trusteed assets – Title.

Title to the trusteed assets is vested in the trustee or trustees and their successors for the purposes of the trust deposit, and the trust agreement shall so provide.

§27-33-10. Same – Separation; record.

The trustee shall keep the trusteed assets separate from other assets and shall maintain a record thereof sufficient to identify trusteed assets at all times.

§27-33-11. Same – Trustee statements.

(a) The trustee of trusteed assets shall from time to time file with the

commissioner statements, in such form as he may designate and request in writing, certifying the character of such assets and the amounts thereof.

(b) If the trustee fails to file any such statement after request therefor and expiration of a reasonable time thereafter, the commissioner may suspend or revoke the certificate of authority of the insurer.

§27-33-12. Same – Examination.

The commissioner may examine trusteed assets of any insurer at any time in accordance with the same conditions and procedures governing the examination of insurers in general under chapter 2 of this title.

§27-33-13. Same – Withdrawal.

(a) The trust agreement shall provide, in substance, that no withdrawals of trusteed assets shall be made by the insurer or permitted by the trustee without the written authorization or approval of the commissioner in advance thereof except as follows:

(1) Any or all income, earnings, dividends or interest accumulations of the trusteed assets may be paid over to the United States manager of the insurer upon request of the insurer or the manager;

(2) For substitution, coincidentally with such withdrawal, of other securities or assets of value at least equal in amount to those being withdrawn, if such substituted securities or assets are likewise such as are eligible for investment of the funds of like domestic insurers and if such withdrawal is requested in writing by the insurer's United States manager pursuant to general or specific written authority previously given or delegated by the insurer's board of directors, or other similar governing body, and a copy of such authority has been filed with the trustee;

(3) For the purpose of making deposits required by law in any state in which the insurer is, or thereafter becomes, an authorized insurer for the protection of the insurer's policyholders or policyholders and creditors in such state or in the United States, if such withdrawal does not reduce the insurer's deposit in this state to an amount less than the minimum deposit required under subsection (a) of section 27-3-14. The trustee shall transfer any assets so withdrawn and in the amount so required to be deposited in the other state direct to the depository required to receive such deposit in such other state, as certified in writing by the public official having supervision of insurance in the other state; and

(4) For the purpose of transferring the trusteed assets to an official liquidator, conservator or rehabilitator pursuant to the order of a court of competent jurisdiction.

(b) The commissioner shall so authorize or approve withdrawal of only such assets as are in excess of the amount of assets required to be so held in trust under section 27-33-2, or as may otherwise be consistent with the provisions of this chapter.

(c) If at any time the insurer becomes insolvent or if its assets held in the United States are less in amount than as required under subsection (a) of section 27-3-14, upon determination thereof, the commissioner shall in writing order the trustee to suspend the right of the insurer or any other person to withdraw assets as authorized under subdivisions (a) (1), (a) (2) and (a) (3) of this section, and the trustee shall comply with such order until the further order of the commissioner.

§27-33-14. Trustees -- Substitution.

(a) A new trustee, or new trustees, may be substituted for the original trustee, or trustees, of trusteed assets in the event of a vacancy or for other proper cause. Any such substitution shall be subject to the commissioner's approval.

(b) If the trustees of any trusteed assets heretofore created are individuals, and if the number of such trustees is reduced to less than three by death, resignation or otherwise, the commissioner shall require that there be substituted for such trustees a bank or trust company in this state approved by him.

§27-33-15. Same -- Compensation and expenses.

The compensation and expenses of any trustee, or trustees, of assets of an alien insurer under this chapter shall be borne by the insurer in such amount, or on such basis, as may be agreed upon by the insurer and the trustees and as set forth in the trust agreement.

§27-33-16. Canadian insurers.

The provisions of this chapter applicable to a United States manager shall, in the case of insurers domiciled in Canada, be deemed to refer to the president, vice-president, secretary or treasurer of such a Canadian insurer.

§27-34-1. Definitions.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **FRATERNAL BENEFIT SOCIETY.** Any incorporated society, order or supreme lodge without capital stock, including one exempted under the provisions of subdivision (a) (2) of section 27-34-5, whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government and which makes provision for the payment of benefits in accordance with this chapter is hereby declared to be a fraternal benefit society.

(2) **SOCIETY.** Such term, unless otherwise indicated, means a fraternal benefit society.

(3) **PREMIUMS.** Premiums, rates or other required contributions by whatever name known.

§27-34-2. Societies deemed operating on lodge system.

A society having a supreme legislative or governing body and subordinate lodges or branches, by whatever name known, into which members are elected, initiated or admitted in accordance with its constitution, laws, ritual and rules, which subordinate lodges or branches are required by the laws of the society to hold regular meetings at least once in each month shall be deemed to be operating on the lodge system.

§27-34-3. When society deemed as having representative form of government.

A society shall be deemed to have a representative form of government when:

(1) It provides in its constitution or laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected, directly or indirectly, by the members, together with such other members of such body as may be prescribed by the society's constitution and laws;

(2) The representatives elected constitute a majority in number and have not less than two thirds of the votes nor less than the votes required to amend its constitution and laws;

(3) The meetings of the supreme legislative or governing body and the election of officers, representatives or delegates are held as often as once in four calendar years;

(4) Each insured member shall be eligible for election to act or serve as a delegate to such meeting;

(5) The society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by such body, and having powers and duties delegated to it in the constitution or laws of the society;

(6) Such board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of such body;

(7) The officers are elected either by the supreme legislative or governing body or by the board of directors; and

(8) The members, officers, representatives or delegates shall not vote by proxy.

§27-34-4. Applicability of chapter – Generally.

Except as provided in this chapter, societies shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose. No law hereafter enacted shall apply to them unless they are expressly designated therein.

§27-34-5. Same -- Exceptions.

(a) Nothing contained in this chapter shall be so construed as to affect or apply to:

(1) Grand or subordinate lodges of societies, orders or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

(2) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;

(3) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than \$400.00 or disability benefits of not more than \$350.00 to any person in any one year, or both; or

(4) Domestic societies or associations of a purely religious, charitable or benevolent description which provide for a death benefit of not more than \$400.00 or for disability benefits of not more than \$350.00 to any one person in any one year, or both.

(b) Any such society or association described in subdivisions (a) (3) or (a) (4) of this section which provides for death or disability benefits for which benefit certificates are issued and any such society or association included in subdivision (a) (4) of this section which has more than 1,000 members shall not be exempted from the provisions of this chapter, but shall comply with all requirements thereof.

(c) No society which, by the provisions of this section, is exempt from the requirements of this chapter, except any society described in subdivision (a) (2) of this section, shall give or allow, or promise to give or allow, to any person any compensation for procuring new members.

(d) Every society which provides for benefits in case of death or disability resulting solely from accident and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges, and be subject to all the applicable provisions and regulations of this chapter; except, that the provisions thereof relating to medical examination, valuations of benefit certificates and incontestability shall not apply to such society.

(e) The commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this chapter.

Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this state.

§27-34-6. License -- Requirement; renewal; fee; evidence.

(a) No fraternal benefit society shall transact business in this state unless authorized therefor under a subsisting license issued to the society by the commissioner.

(b) Societies authorized to transact business in this state as of immediately prior to January 1, 1972, may continue such business until the April 1 next succeeding January 1, 1972. The authority of such societies, and of all societies hereafter licensed, may thereafter be renewed annually, but in all cases to terminate on the succeeding April 1; however, a license so issued shall continue in full force and effect until the new license is issued or specifically refused.

(c) For each such license or renewal, the society shall pay the commissioner \$50.00.

(d) A duly certified copy or duplicate of the license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

(e) Any person who in this state solicits membership for, or in any manner assists in procuring membership in, any fraternal benefit society not currently licensed to do business in this state shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalties prescribed by section 27-1-12.

§27-34-7. Same -- Foreign or alien societies -- Application; qualifications.

(a) No foreign or alien society shall transact business in this state without a license issued by the commissioner. Any such society may be licensed to transact business in this state upon filing with the commissioner:

(1) A duly certified copy of its charter or articles of incorporation;

(2) A copy of its constitution and laws, certified by its secretary or corresponding officer;

(3) A power of attorney to the commissioner as prescribed in section 27-34-47;

(4) A statement of its business under oath of its president and secretary, or corresponding officers, in a form prescribed by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country satisfactory to the commissioner;

(5) A certificate from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein;

(6) Copies of its certificate forms; and

(7) Such other information as he may deem necessary, and upon a showing that its assets are invested in accordance with the provisions of this chapter.

(b) Any foreign or alien society desiring admission to this state shall have the qualifications required of domestic societies organized under this chapter.

§27-34-8. Same -- Same -- Suspension, revocation or refusal.

(a) When the commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this state:

- (1) Has exceeded its powers;
- (2) Has failed to comply with any of the provisions of this chapter;
- (3) Is not fulfilling its contracts in good faith; or

(4) Is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public,

he shall notify the society of his findings, state in writing the reasons for his dissatisfaction and require the society to show cause on a date named why its license should not be suspended, revoked or refused. If on such date the society does not show good and sufficient cause why its authority to do business in this state should not be suspended, revoked or refused, he may suspend or refuse the license of the society to do business in this state, until satisfactory evidence is furnished to him that such suspension or refusal should be withdrawn, or he may revoke the authority of the society to do business in this state.

(b) Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this state during the time such society was legally authorized to transact business herein.

§27-34-9. Articles of Incorporation -- Contents.

Seven or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer, competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

(1) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

(2) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this chapter; provided, however, that any lawful, social, intellectual, educational, charitable, benevolent, moral, fraternal or religious advantages may be set forth among the purposes of the society; and

(3) The names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate.

§27-34-10. Same -- Filing with other documents; bond; preliminary certificate.

Such articles of incorporation, duly certified copies of the constitution, laws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments, if the organization is not completed within one year, shall be filed with the commissioner, who may require such further information as he deems necessary. The bond, with sureties, approved by the commissioner shall be in such amount, not less than \$5,000.00 nor more than \$25,000.00, as required by the commissioner. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as provided in this chapter.

§27-34-11. Preliminary certificate -- Time to complete organization.

No preliminary certificate granted under the provisions of this section shall be valid after one year from its date or after such further period, not exceeding one year, as may be authorized by the commissioner upon cause shown, unless the 500 applicants required in this chapter have been secured and the organization has been completed as provided in this chapter. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the preliminary certificate, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as provided in this chapter.

§27-34-12. Same -- Initial solicitations and qualifications.

Upon receipt of a preliminary certificate from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates as provided by its constitution and laws and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow or offer or promise to pay or allow any death or disability benefit to any person until:

(1) Actual bona fide applications for death benefits have been secured aggregating at least \$500,000.00 on not less than 500 lives;

(2) All such applicants for death benefits shall have furnished evidence of insurability satisfactory to the society;

(3) Certificates of examinations or acceptable declarations of insurability have been duly filed and approved by the chief medical examiner of the society;

(4) Ten subordinate lodges or branches have been established into which the 500 applicants have been admitted;

(5) There has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

(6) It shall have been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have each paid in cash at least one regular monthly premium as provided in this chapter, which premiums in the aggregate shall amount to at least \$2,500.00, all of which shall be credited to the fund, or funds, from which benefits are to be paid and no part of which may be used for expenses. Such advance premiums shall be held in trust during the period of organization, and if the society has not qualified for a certificate of authority within one year, as provided in this chapter, the premiums shall be returned to the applicants.

§27-34-13. Certificate of compliance.

The commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to the society a certificate to that effect and that the society is authorized to transact business pursuant to the provisions of this chapter. The certificate shall be prima facie evidence of the existence of the society at the date of such certificate. The commissioner shall cause a record of such certificate to be made. A certified copy of such record may be given in evidence with like effect as the original certificate.

§27-34-14. Constitution and laws; powers.

(a) Every society shall have the power to adopt a constitution and laws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of its members from time to time. It shall have the power to change, alter, add to or amend such constitution and laws.

(b) A society shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

§27-34-15. Existing incorporated societies.

Any incorporated society authorized to transact business in this state on January 1, 1973, may thereafter exercise all the rights, powers and privileges prescribed in this chapter and in its charter or articles of incorporation as far as consistent with this chapter. A domestic society shall not be required to reincorporate.

§27-34-16. Incorporation of existing unincorporated domestic voluntary associations.

(a) After January 1, 1973, no unincorporated or voluntary association shall be permitted to transact business in this state as a fraternal benefit society.

(b) Any domestic voluntary association now authorized to transact business in this state may incorporate and shall receive from the commissioner a permanent certificate of incorporation as a fraternal benefit society when:

(1) It has completed its conversion to an incorporated society not later than January 1, 1974;

(2) It has filed its articles of incorporation and has satisfied the other requirements described in sections 27-34-9 through 27-34-13; and

(3) The commissioner has made such examination and procured whatever additional information he deems advisable.

(c) Every voluntary association so incorporated shall incur the obligations and enjoy the benefits thereof the same as though originally incorporated, and such corporation shall be deemed a continuation of the original voluntary association. The officers thereof shall serve through their respective terms as provided in its original articles of association, but their successors shall be elected and serve as provided in its articles of incorporation. Incorporation of a voluntary association shall not affect existing actions, claims or contracts.

§27-34-17. Amendment of articles of incorporation, constitution or laws.

(a) A domestic society may amend its articles of incorporation, constitution or laws in accordance with the provisions thereof by action of its supreme legislative or governing body at any regular or special meeting thereof or, if its articles of incorporation, constitution or laws so provide, by referendum. Such referendum may be held in accordance with the provisions of its articles of incorporation, constitution or laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges or branches. No amendment submitted for adoption by referendum shall be adopted unless, within six months from the date of submission thereof, a majority of all of the voting members of the society shall have signified their consent to such amendment by one of the methods specified in this subsection.

(b) No amendment to the articles of incorporation, constitution or laws of any domestic society shall take effect unless approved by the commissioner, who shall approve such amendment if he finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this state or with the character, objects and purposes of the society. Unless the commissioner disapproves any such amendment within 60 days after the filing of same, such amendment shall be considered approved. The approval or disapproval of the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case he disapproves the amendment, the reasons therefor shall be stated in the written notice.

(c) Within 90 days from the approval thereof by the commissioner, all such amendments, or a synopsis thereof, shall be furnished by the society to all members either by mail or by publication in full in the official organ of the society. The affidavit of any officer of the society, or of anyone authorized by it to mail any amendments, or synopsis thereof, stating facts which show that same have been

duly addressed and mailed, shall be prima facie evidence that such amendments, or synopsis thereof, have been furnished the addressee.

(d) Every foreign or alien society authorized to do business in this state shall file with the commissioner a duly certified copy of all amendments of, or additions to, its articles of incorporation, constitution or laws within 90 days after the enactment of same.

(e) Printed copies of the constitution or laws as amended, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of the legal adoption thereof.

§27-34-18. Waiver of societies' laws and constitution.

The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members, shall have the power or authority to waive any of the provisions of the laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

§27-34-19. Principal office of domestic society; meetings of governing body and minutes thereof.

(a) The principal office of any domestic society shall be located in this state. The meetings of its supreme legislative or governing body may be held in any state, district, province or territory wherein such society has at least five subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state.

(b) The minutes of the proceedings of the supreme or governing body and of the board of directors, or corresponding body of a society, shall be in the English language.

§27-34-20. Creation, etc., of charitable, benevolent or educational institutions.

(a) It shall be lawful for a society to create, maintain and operate charitable, benevolent or educational institutions for the benefit of its members and their families and dependents and for the benefit of children insured by the society. For such purpose, it may own, hold or lease personal property or real property located within or without this state, with necessary buildings thereon. Such property shall be reported in every annual statement, but shall not be allowed as an admitted asset of such society.

(b) Maintenance, treatment and proper attendance in any such institution may be furnished free or a reasonable charge may be made therefor, but no such institution shall be operated for profit. The society shall maintain a separate accounting of any income and disbursements under this section and report them in its annual statement.

(c) No society shall own or operate funeral homes or undertaking establishments.

§27-34-21. Members -- Qualifications for membership.

(a) A society may admit to benefit membership any person not less than 15 years of age, nearest birthday, who has furnished evidence of insurability acceptable to the society. Any such member who shall apply for additional benefits more than six months after becoming a benefit member shall furnish additional evidence of insurability acceptable to the society.

(b) Any person admitted prior to attaining the full age of 19 years shall be bound by the terms of the application and certificate and by all the laws and rules of the society and shall be entitled to all the rights and privileges of membership therein to the same extent as though the age of majority had been attained at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs.

§27-34-22. Same -- Payment of equitable part of deficiency.

A society shall provide in its constitution or laws that if its reserves as to all or any class of certificates become impaired, its board of directors, or corresponding body, may require that there shall be paid by the member of the society the amount of the member's equitable proportion of such deficiency as ascertained by its board and that, if the payment is not made, it shall stand as an indebtedness against the member's certificate and draw interest not to exceed five percent per annum, compounded annually.

§27-34-23. Benefits -- Generally.

(a) A society authorized to do business in this state may provide for the payment of:

- (1) Death benefits in any form;
- (2) Endowment benefits;
- (3) Annuity benefits;
- (4) Temporary or permanent disability benefits as a result of disease or accident;
- (5) Hospital, medical or nursing benefits due to sickness or bodily infirmity or accident; and
- (6) Monument or tombstone benefits to the memory of deceased members not exceeding in any case the sum of \$300.00.

(b) Such benefits may be provided on the lives of members or, upon application of a member, on the lives of a member's family, including the member, the member's spouse and minor children, in the same or separate certificates.

§27-34-24. Same -- Lives of children.

(a) A society may provide for benefits on the lives of children under the minimum age for adult membership but not greater than 19 years of age at time of

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application therefor, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with the provisions of section 27-34-23. A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.

(b) A society shall have power to provide for the designation and changing of designation of beneficiaries in the certificates providing for such benefits and to provide in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith.

§27-34-25. Paid-up nonforfeiture benefits, cash surrender values and certificate loans, etc.

(a) A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans and such other options as its laws may permit. As to certificates issued on and after January 1, 1972, a society shall grant at least one paid-up nonforfeiture benefit, except in the case of pure endowment, annuity or reversionary annuity contracts reducing term insurance contracts or contracts of term insurance of uniform amount of 15 years or less expiring before age 66.

(b) In the case of certificates other than those for which reserves are computed on the commissioners 1958 standard ordinary mortality table or the 1961 standard industrial table, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, of subdivision (1) over subdivision (2) of this subsection, as follows:

(1) The reserve under the certificate determined on the basis specified in the certificate; and

(2) The sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to two and one-half percent of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate if death benefits provided therein are graded.

(c) However, in the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American men ultimate table of mortality, the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than 130 percent of those shown by the mortality table specified in the certificate for the computation of the reserve.

(d) In the case of certificates for which reserves are computed on the commissioners 1958 standard ordinary mortality table or the 1961 standard industrial table, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this state applicable to life insurers issuing policies containing like insurance benefits based upon such tables.

§27-34-26. Beneficiaries.

(a) The member shall have the right at all times to change the beneficiary, or beneficiaries, in accordance with the constitution, laws or rules of the society. Every society by its constitution, laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract.

(b) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, but the portion so paid shall not exceed the sum of \$500.00.

(c) If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits are payable, the amount of such benefits, except to the extent that funeral benefits may be paid as provided in this chapter, shall be payable to the personal representative of the deceased member.

§27-34-27. Exemption of benefits, etc., from attachment, garnishment or other process.

No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society shall be liable to attachment, garnishment or other process or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

§27-34-28. Personal liability for payment of benefits.

The officers and members of the supreme, grand or any subordinate body of a society shall not be personally liable for payment of any benefits provided by a society.

§27-34-29. Issuance of certificate to each benefit member; matters constituting agreement.

(a) Every society authorized to do business in this state shall issue to each benefit member a certificate specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant and all amendments to each thereof shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

(b) All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this subsection shall be void.

(c) Any changes, additions or amendments to the charter or articles of incorporation, constitution or laws duly made or enacted subsequent to the issuance of the certificate shall bind the member and the beneficiaries and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to, and were in force at the time of, the application for membership; except, that no change, addition or amendment shall destroy or diminish benefits which the society contracted to give the member as of the date of issuance.

(d) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

§27-34-30. Life benefit certificate -- Filing with commissioner; standard provisions.

(a) After January 1, 1973, no life benefit certificate shall be delivered, or issued for delivery, in this state unless a copy of the form has been filed with the commissioner.

(b) The certificate shall contain in substance the following standard provisions or, in lieu thereof, provisions which are more favorable to the member:

(1) Title on the face and filing page of the certificate clearly and correctly describing its form;

(2) A provision stating the amount of rates, premiums or other required contributions, by whatever name known, which are payable by the insured under the certificate;

(3) A provision that the member is entitled to a grace period of not less than a full month, or 30 days at the option of the society, in which the payment of any premium after the first may be made. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of such overdue payment, or payments, may be deducted in any settlement under the certificate;

(4) A provision that the member shall be entitled to have the certificate reinstated at any time within three years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding six percent per annum, compounded annually;

(5) Except in the case of pure endowment, annuity or reversionary annuity contracts reducing term insurance contracts or contracts of term insurance of uniform amount of 15 years or less expiring before age 66, a provision that, in the event of default in payment of any premium after three full years' premiums have been paid or after premiums for a lesser period have been paid if the contract so provided, the society will grant, upon proper request, not later than 60 days after

the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this chapter. The certificate may provide, if the society's laws so specify or if the member shall so elect prior to the expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate;

(6) A provision that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than 60 days after the due date of the premium in default;

(7) A statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate, and a brief general statement of the method used in calculating such benefits;

(8) A table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first 20 certificate years or during the term of the certificate, whichever is shorter;

(9) A provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of two years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation or naval service and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization and provisions which grant additional insurance specifically against death by accident or accidental means may also be excepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the member for a period of two years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society shall have the right to contest a reinstated certificate within a period of two years from the date of reinstatement with the same exceptions as provided in this subdivision;

(10) A provision that in case the age of the member or of any other person is considered in determining the premium and it is found at any time before final settlement under the certificate that the age has been misstated and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age; but if the correct age was not an insurable age under the society's charter or laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age according to the society's promulgated rates and any extension thereof based on actuarial principles;

(11) A provision, or provisions, which recite fully, or which set forth the substance of, all sections of the charter, constitution, laws, rules or regulations of the society in force at the time of issuance of the certificate, the violation of which will result in the termination of, or in the reduction of, the benefit, or benefits, payable under the certificate; and

(12) If the constitution or laws of the society provide for expulsion or suspension of a member, any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentations in such member's application for membership, shall have the privilege of maintaining his insurance in force by continuing payment of the required premium.

(c) Any of the provisions, or portions thereof, prescribed in subsection (b) of this section not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate.

§27-34-31. Same -- Prohibited provisions.

After January 1, 1973, no life benefit certificate shall be delivered or issued for delivery in this state containing, in substance, any of the following provisions:

(1) Any provision limiting the time with which any action may be commenced to less than two years after the cause of action accrues;

(2) Any provision by which the certificate purports to be issued or to take effect more than six months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made; or

(3) Any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan which the total indebtedness, including interest, is less than the loan value of the certificate.

§27-34-32. Accident or health and total or permanent disability insurance contracts.

(a) No domestic, foreign or alien society authorized to do business in this state shall issue or deliver in this state any certificate or other evidence of any contract of accident insurance or health insurance or of any total and permanent disability insurance contract unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the commissioner.

(b) The commissioner shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to the provisions of chapter 19 of this title. Where the commissioner deems inapplicable, either in part or in their entirety, the provisions of chapter 19 of this title, he may prescribe the portions, or summary thereof, of the contract to be printed on the certificate issued to the member.

(c) Any filing made under this section shall be deemed approved unless disapproved within 60 days from the date of such filing.

§27-34-33. Reinsurance.

A domestic society may, by a reinsurance agreement, cede any individual risk or risks, in whole or in part, to an insurer, other than another fraternal benefit society, having the power to make such reinsurance and authorized to do business in this state or, if not so authorized, one which is approved by the commissioner; but no such society may reinsure substantially all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability to a ceding society for reinsurance made, ceded, renewed or otherwise becoming effective after January 1, 1972, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract, or contracts, reinsured without diminution because of the insolvency of the ceding society.

§27-34-34. Assets; funds; expenses.

(a) All assets shall be held, invested and disbursed for the use and benefit of the society, and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof except as provided in the contract.

(b) A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

(c) Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for certificates issued after January 1, 1973, shall, in every provision of the laws of the society for payments by members of such society, in whatever form made, distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes, or the net accretions thereto, shall be used for expenses.

§27-34-35. Investments.

A society shall invest its funds only in such investments as are authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated shall be held to meet the requirements of this section for the investment of funds.

§27-34-36. Annual statements -- Requirements.

(a) Report shall be filed and synopses of annual statements shall be published in accordance with the provisions of this section.

(b) Every society transacting business in this state shall annually, on or before March 1, unless for cause shown such time has been extended by the commissioner, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee of \$10.00 for filing same. The statement shall be in general form and context as approved by the national association of insurance commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

(c) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than June 1 of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

§27-34-37. Same -- Valuation of certificates; reserves.

(a) As a part of the annual statement required under section 27-34-36, each society shall, on or before March 1, file with the commissioner a valuation of its certificates in force on December 31 last preceding; provided, however, that the commissioner may, in his discretion for cause shown, extend the time for filing such valuation for not more than two calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present midyear value of the promised benefits provided in the certificates of such society in force and the present midyear value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present midyear value of future net premiums exceeds the present midyear value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one year after January 1, 1972, shall be determined in accordance with the provisions of law applicable prior to January 1, 1972, and, as to certificates issued on or after January 1, 1973, shall not be less than the reserves determined according to the commissioners' reserve valuation method as defined in this section. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in such premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the midyear or tabular values are not appropriate.

(b) Reserves, according to the commissioners' reserve valuation method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such certificates over the then present value of any future modified net premiums therefor. The modified net premiums for any such certificate shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the certificate and the excess of subdivision (1) over subdivision (2) of this subsection, as follows:

(1) A net level premium equal to the present value, at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such certificate on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such certificate; and

(2) A net one-year term premium for such benefits provided for in the first certificate year.

(c) Reserves according to the commissioners' reserve valuation method for:

(1) Life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums;

(2) Annuity and pure endowment benefits;

(3) Disability and accidental death benefits in all certificates and contracts; and

(4) All other benefits, except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of subsection (b) of this section.

(d) The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in subsections (e) and (f) of this section.

(e) Such valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(f) The minimum standards of valuation for certificates issued prior to one year from January 1, 1972, shall be those provided by the law applicable immediately prior to January 1, 1972, but not lower than the standards used in the calculating of rates for such certificates.

(g) The minimum standard of valuation for certificates issued after January 1, 1973, shall be three and one-half percent interest and the following tables:

(1) FOR CERTIFICATES OF LIFE INSURANCE. -- American men ultimate table of mortality, with Bowerman's or Davis' extension thereof or, with the consent of the commissioner, the commissioner's 1958 standard ordinary mortality table, the commissioner's 1941 standard industrial table of mortality or the commissioner's 1961 standard industrial table of mortality;

(2) FOR ANNUITY CERTIFICATES, INCLUDING LIFE ANNUITIES PROVIDED OR AVAILABLE UNDER OPTIONAL MODES OF SETTLEMENT IN SUCH CERTIFICATES. -- The 1937 standard annuity table;

(3) **FOR DISABILITY BENEFITS ISSUED IN CONNECTION WITH LIFE BENEFIT CERTIFICATES.** -- Hunter's disability table, which, for active lives, shall be combined with a mortality table permitted for calculating the reserves on life insurance certificates, except that the table known as Class 3 disability table (1926) modified to conform to the contractual waiting period, shall be used in computing reserves for disability benefits under a contract which presumes that total disability shall be considered to be permanent after a specified period;

(4) **FOR ACCIDENTAL DEATH BENEFITS ISSUED IN CONNECTION WITH LIFE BENEFIT CERTIFICATES.** -- The intercompany double indemnity mortality table combined with a mortality table permitted for calculating the reserves for life insurance certificates; and

(5) **FOR NONCANCELLABLE ACCIDENT AND HEALTH BENEFITS.** -- The Class 3 disability table (1926) with conference modifications or, with the consent of the commissioner, tables based upon the society's own experience.

(h) The commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard prescribed in this section. The commissioner may, in his discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this state. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three consecutive years, the commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

(i) Any society, with the consent of the insurance supervisory official of the state of domicile of the society and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in excess of the reserves required under this section, but the contractual rights of any insured member shall not be affected thereby.

§27-34-38. Same -- Failure to file.

A society neglecting to file the annual statement in the form and within the time provided by this chapter shall forfeit \$100.00 for each day during which such neglect continues; and, upon notice by the commissioner to that effect, its authority to do business in this state shall cease while such default continues.

§27-34-39. Examinations -- Domestic societies.

(a) The commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic society, and he shall make such examination at least once in every three years. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society.

(b) In making any such examination, the commissioner may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and condition of the society.

(c) A summary of the report of the commissioner, and such recommendations or statements of the commissioner as may accompany such report, shall be read at the first meeting of the board of directors, or corresponding body of the society, following the receipt thereof and, if directed so to do by the commissioner, shall also be read at the first meeting of the supreme legislative or governing body of the society following the receipt thereof. A copy of the report, recommendations and statements of the commissioner shall be furnished by the society to each member of such board of directors or other governing body.

(d) The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.

§27-34-40. Same -- Foreign and alien societies.

The commissioner, or any person whom he may appoint, may examine any foreign or alien society transacting, or applying for admission to transact, business in this state. He may employ assistants and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. He may, in his discretion, accept, in lieu of such examination, the examination of the insurance department of the state, territory, district, province or country where such society is organized. The compensation and actual expenses of the examiners making any examination or general or special valuation shall be paid by the society examined or by the society whose certificate obligations have been valued, upon statements furnished by the commissioner.

§27-34-41. Same -- Publication of financial statement, report or finding.

Pending, during or after an examination or investigation of a society, either domestic, foreign or alien, the commissioner shall make public no financial statement, report or finding nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any society until a copy thereof shall have been served upon the society at its principal office and the society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding and to make such showing in connection therewith as it may desire.

§27-34-42. Exemption from taxation.

Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax other than taxes on real estate and office equipment.

§27-34-43. Agents -- Licensing.

(a) A fraternal benefit society shall solicit applications for insurance or annuities only through agents of the society licensed as such agents by the commissioner under, and subject to, the same provisions and procedures as apply to life and disability insurers in general under chapter 8 of this title.

(b) For the purposes of this section, the term "agent" or "agents" shall not include:

(1) Any regular salaried officer or employee of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(2) Any agent or representative of a society who devotes, or intends to devote, less than 50 percent of his time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of \$50,000.00 or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than 25 individuals and who has received, or will receive, a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, 50 percent of his time to the solicitation or procurement of insurance contracts for such society.

§27-34-44. Same -- Solicitation without license.

(a) Any person who in this state acts as insurance agent for a fraternal benefit society without having a currently effective license therefor issued by the commissioner shall, upon conviction thereof, be guilty of a misdemeanor and shall be subject to penalties as prescribed in section 27-1-12.

(b) No society shall pay any commission or other compensation to any person for services in this state in the solicitation of any application for insurance or an annuity except to an agent of the society licensed as provided in section 27-34-43.

§27-34-45. Misrepresentations.

No person shall cause or permit to be made, issued or circulated in any form:

(1) Any misrepresentation or false or misleading statement concerning the terms, benefits or advantages of any fraternal insurance contract now issued, or to be issued, in this state or the financial condition of any society;

(2) Any false or misleading estimate or statement concerning the dividends or shares of surplus paid, or to be paid, by any society on any insurance contract; or

(3) Any incomplete comparison of an insurance contract of one society with an insurance contract of another society or insurer for the purpose of inducing the lapse, forfeiture or surrender of any insurance contract. A comparison of insurance contracts is incomplete:

a. If it does not compare in detail:

1. The gross rates and the gross rates less any dividend or other reduction allowed at the date of the comparison; and

2. Any increase in cash values and all the benefits provided by each contract for the possible duration thereof as determined by the life expectancy of the insured; or

b. If it omits from consideration:

1. Any benefit or value provided in the contract;

2. Any differences as to amount or period of rates; or

3. Any differences in limitations or conditions or provisions which directly or indirectly affect the benefits.

In any determination of the incompleteness or misleading character of any comparison or statement, it shall be presumed that the insured had no knowledge of any of the contents of the contract involved.

(4) Any person who violates any provision of this section or knowingly receives any compensation or commission by or in consequence of such violation shall, upon conviction, be punished by a fine not less than \$100.00 nor more than \$1,000.00 or by imprisonment in the county jail not less than 30 days nor more than 90 days, or by both fine and imprisonment, and shall, in addition, be liable for a civil penalty in the amount of three times the sum received by such violator as compensation or commission, which penalty an action may be maintained for and recovered by any person or society aggrieved for his, or its, own use and benefit in accordance with the provisions of civil practice.

§27-34-46. Discrimination, inducements and rebates.

(a) No society doing business in this state shall make or permit any unfair discrimination between insured members of the same class and equal expectation of life in the premiums charged for certificates of insurance in the dividends or other benefits payable thereon or in any other of the terms and conditions of the contracts it makes.

(b) No society, by itself, or any other party and no agent or solicitor, personally or by any other party shall offer, promise, allow, give, set off or pay, directly or indirectly, any valuable consideration or inducement to or for insurance on any risk authorized to be taken by such society which is not specified in the certificate. No member shall receive or accept, directly or indirectly, any rebate of premium, or part thereof, or agent's or solicitor's commission thereon payable on any certificate or receive or accept any favor or advantage or share in the dividends or other benefits to accrue on, or any valuable consideration or inducement not specified in, the contract of insurance.

§27-34-47. Service of process.

(a) Every society authorized to do business in this state shall appoint, in writing, the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall

be served and shall agree, in such writing, that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the society and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by the commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

(b) Service shall only be made upon the commissioner or, if absent, upon the person in charge of his office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, he shall forthwith forward one of the duplicate copies by registered or certified mail, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than 30 days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner provided in this section. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner a fee of \$2.00.

§27-34-48. Consolidation or merger -- Procedure.

(a) A domestic society may consolidate or merge with any other society by complying with the provisions of this section. It shall file with the commissioner:

(1) A certified copy of the written contract containing, in full, the terms and conditions of the consolidation or merger;

(2) A sworn statement by the president and secretary, or corresponding officers, of each society showing the financial condition thereof on a date fixed by the commissioner, but not earlier than December 31 next preceding the date of the contract;

(3) A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme legislative or governing body of each society; and

(4) Evidence that at least 60 days prior to the action of the supreme legislative or governing body of each society, the text of the contract has been furnished to all members of each society, either by mail or by publication in full in the official organ of each society.

(b) The affidavit of any officer of the society, or of anyone authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressees.

(c) If the commission finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a

party to the contract is incorporated under the laws of any other state. In such event, the consolidation or merger shall not become effective unless, and until, it has been approved as provided by the laws of such state and a certificate of such approval filed with the commissioner or, if the laws of such state contain no such provision, then the consolidation or merger shall not become effective unless, and until, it has been approved by the insurance supervisory official of such state and a certificate of such approval filed with the commissioner.

§27-34-49. Same -- Effect.

Upon the consolidation or merger effective as provided in section 27-34-48, all the rights, franchises and interests of the consolidated or merged societies in, and to, every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from, or remaining after, the consolidation or merger without any other instrument; except, that conveyances of real property may be evidenced by proper deeds, and the title to any real estate, or interest therein, vested under the laws of this state in any of the societies consolidated or merged shall not revert, or be in any way impaired, by reason of the consolidation or merger, but shall vest absolutely in the society resulting from, or remaining after, such consolidation or merger.

§27-34-50. Actions to enjoin or in quo warranto; liquidation; receivership.

(a) When the commissioner upon investigation finds that a domestic society:

- (1) Has exceeded its powers; or
- (2) Has failed to comply with any provision of this chapter; or
- (3) Is not fulfilling its contracts in good faith; or
- (4) Has a membership of less than 400 after an existence of one year or more; or
- (5) Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business, he shall notify the society of his findings, state in writing the reasons for his dissatisfaction and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected or why an action in quo warranto should not be commenced against the society.

(b) If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the commissioner may present the facts relating thereto to the attorney general who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto. The court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order.

(c) No society so enjoined shall have the authority to do business until:

(1) The commissioner finds that the violation complained of has been corrected;

(2) The costs of such action have been paid by the society if the court finds that the society was in default as charged;

(3) The court has dissolved its injunction; and

(4) The commissioner has reinstated the society's license.

(d) If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money and other assets of the society and, under the direction of the court, proceed forthwith to close the affairs of the society and to distribute its funds to those entitled thereto.

(e) No action under this section shall be recognized in any court of this state unless brought by the attorney general upon request of the commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the commissioner as such receiver.

(f) The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner, hearing by the court, injunction and receivership shall be applicable to a society which voluntarily determines to discontinue business.

§27-34-51. Applications for injunctions.

No application or petition for injunction against any domestic, foreign or alien society, or branch thereof, shall be recognized in any court of this state unless made by the attorney general upon request of the commissioner.

§27-34-52. Review of decisions and findings of commissioner.

All decisions and findings of the commissioner made under the provisions of this chapter shall be subject to review by the court in accordance with the provisions of section 27-2-32.

§27-34-53. False statements.

Any person who willfully makes a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any fraternal benefit society, for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who willfully makes any false statement in any verified report or declaration under oath required or authorized by law as to fraternal benefit societies shall be guilty of perjury and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury.

§27-34-54. Applicability of other provisions.

In addition to the provisions heretofore contained or referred to in this chapter, other chapters and provisions of this title shall apply to fraternal benefit societies, to the extent applicable and not in conflict with the express provisions of this chapter, and the reasonable implications thereof, as follows:

- (1) Chapter 1;
- (2) Chapter 2;
- (3) The following sections of chapter 3:
 - a. Section 27-3-4; and
 - b. Section 27-3-5;
- (4) The following sections of chapter 10:
 - a. Section 27-10-1;
 - b. Section 27-10-2; and
 - c. Section 27-10-3;
- (5) Chapter 12;
- (6) Section 27-15-29;
- (7) The following sections of chapter 27:
 - a. Section 27-27-26;
 - b. Section 27-27-27;
 - c. Section 27-27-29; and
 - d. Section 27-27-50; and
- (8) Chapter 32.

§27-35-1. Conversion into stock or mutual life insurance company -- Authority; how effected.

Any fraternal benefit society organized under the laws of this state may convert itself into a stock life insurance company or a mutual life insurance company, which may be a continuation of such society under an amended charter, if such society is then incorporated, or a new corporation formed for such purpose if such society is then unincorporated. In either event, the conversion of such society into a stock life insurance company or a mutual life insurance company shall be effected as provided in this chapter.

§27-35-2. Same -- Plan of conversion; approval or disapproval thereof.

(a) The proposed plan for the conversion of the society into a stock or mutual life insurer shall be prepared in writing, setting forth in full the terms and conditions thereof. After approval of the plan by the society's board of directors, the society shall file the plan of conversion with the commissioner.

(b) If, upon examination thereof, the commissioner is of the opinion that the plan is complete, is in compliance with the law, is fair and equitable to the certificate holders and interests of the society and that no reasonable objection thereto exists, he shall approve the plan; if he finds otherwise, the commissioner shall disapprove the plan. If not disapproved and written notice thereof given the society within 30 days after the date of filing with the commissioner, the plan shall be deemed to have been approved as of the expiration of such 30 days' period. In any such notice of disapproval, the commissioner shall state the reasons for disapproval.

(c) No society shall effectuate any plan of conversion which has been disapproved by the commissioner.

§27-35-3. Same -- Notice to subordinate lodges or branches.

After the plan of conversion has been approved by the commissioner, the society shall mail notice by registered or certified mail to all of its subordinate lodges or branches, by whatever name called, stating that a proposal will be made at a meeting of the supreme governing or legislative body of the society, to be held at least 90 days after the mailing of the notice, to convert the society into a stock or mutual life insurer and enclosing a copy of the proposed plan of conversion.

§27-35-4. Same -- Ratification or amendment of articles of incorporation -- Generally.

Pursuant to the notice provided for in section 27-35-3, the supreme governing or legislative body shall adopt a resolution authorizing the conversion of the society into a stock or mutual insurer, as the case may be, and shall ratify articles of incorporation, if the society is then unincorporated, or amend the society's articles of incorporation if it is then incorporated, to comply with the requirements of this title.

§27-35-5. Same -- Same -- Filing.

(a) The articles of incorporation so adopted or as so amended, as the case may be, shall be filed with the probate judge as required of domestic insurers under this title; except, that no bond or solicitation permit shall be required.

(b) At the time of filing of articles of incorporation or amended articles of incorporation with the commissioner, the society shall likewise file a report of the meeting of its supreme governing or legislative body referred to in sections 27-35-3 and 27-35-4, certified by the presiding officer thereof under the corporate seal, if the society has a corporate seal.

§27-35-6. Same -- Certificates of incorporation and authority.

The society shall have corporate existence as a domestic stock or mutual life insurer upon issuance of the certificate of incorporation by the commissioner or approval of the amended articles of incorporation, as the case may be; but it shall not transact business as an insurer until all its authorized capital stock, if a stock insurer, has been subscribed and paid in full and it has otherwise qualified for, and received from the commissioner, a certificate of authority as provided in this title for legal reserve insurers.

§27-35-7. Same – Provisions for certificate holders to subscribe to stock.

If the fraternal benefit society is to be converted into a stock life insurer, the plan of conversion shall make reasonable provisions under which each adult certificate holder of the society shall have the preemptive right to subscribe to and purchase that proportion of the total authorized capital which the amount of his insurance bears to the society's total insurance in force at a date to be specified in such plan; except, that if more than 75 percent of the society's adult certificate holders are residents of this state, such preemptive right may, in the commissioner's discretion, under the plan be limited to such residents.

§27-35-8. Same – Completion; effect.

(a) When a fraternal benefit society has complied with the provisions of this chapter and with the laws of this state relating to domestic stock life insurers or domestic mutual life insurers, as the case may be, and has received from the commissioner a certificate of authority to transact business in this state, its reorganization and conversion into such stock insurer or mutual insurer shall be complete.

(b) The reorganized and converted corporation shall be deemed in law to be a continuation of the fraternal benefit society, whether the reorganization and conversion shall have been accomplished by the formation of a new corporation or by the amendment of the certificate of incorporation of the former society; and such reorganized and converted corporation shall succeed to, and become invested with, all and singular, the rights, privileges, franchises, and all property, real, personal or mixed, and all debts due on any account and all other things in action theretofore belonging to such fraternal benefit society; and all property, rights, privileges, franchises and all and every other interest shall thereafter be as effectually the property of such reorganized and converted corporation as they were of the former fraternal benefit society; and the title to any real estate, by deed or otherwise vested in such former fraternal benefit society, shall vest in such reorganized and converted corporation and shall not in any way be impaired by reason of the conversion.

§27-35-9. Same – Preservation of debts, liabilities and duties.

Rights of creditors and all liens upon the property of the former fraternal benefit society shall be preserved unimpaired after the society's conversion, and the former fraternal benefit society shall be deemed to continue in existence in order to preserve the same; and all debts, liabilities and duties of the former fraternal benefit society shall thenceforth attach to the reorganized and converted corporation and may be enforced against it to the same extent as if said debts, duties and liabilities had been incurred or contracted by it.

§27-35-10. Same -- Obligation to holders of policies or certificates; pending actions.

(a) The reorganized and converted corporation shall be obligated to carry out and perform all of the obligations of every kind and character owing by the former fraternal benefit society to the holders of its policies or beneficial certificates, and the same may be enforced against it to the same extent as if the policies and beneficial certificates had been issued by it after such conversion.

(b) Any pending actions wherein the former fraternal benefit society was a party shall be unaffected by the conversion thereof and shall be prosecuted by or against such reorganized and converted corporation the same as if the conversion had not taken place.

§27-35-11. Same -- Separate record of premiums; exemption from premium taxes.

The insurer, after conversion from a fraternal benefit society, shall maintain separate records of premiums received by it on account of policies and certificates originally issued while a fraternal benefit society and continuing in force without material change as to form or basis of premium. All such premiums shall be exempt from premium taxes to the same extent, if any, as to which exempted if currently received by a domestic fraternal benefit society.

§27-36-1. Liabilities generally.

In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

(1) The amount of its capital stock outstanding, if any;

(2) The amount, estimated consistent with the provisions of this title, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof;

(3) With reference to life and disability insurance and annuity contracts:

a. The amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to this title which are applicable thereto;

b. Reserves for disability benefits, for both active and disabled lives;

c. Reserves for accidental death benefits; and

d. Any additional reserves which may be required by the commissioner consistent with practice as last formulated or approved by the national association of insurance commissioners, or its successor organization, on account of such insurance;

(4) With reference to insurance other than specified in subdivision (3) of this section, and other than title insurance, the amount of reserves equal to the

unearned portions of the gross premiums charged on policies in force, computed in accordance with this chapter;

(5) Taxes, expenses and other obligations due or accrued at the date of the statement; and

(6) In the case of life insurers, a securities valuation reserve calculated in accordance with the rules of the commissioner, which rules shall not be inconsistent with the rules and regulations promulgated by the national association of insurance commissioners or its successor organization.

§27-36-2. Unearned premium reserve -- Title insurance.

(a) In addition to an adequate reserve as to outstanding losses as required under section 27-36-1, a title insurer shall maintain an unearned premium reserve of not less than an amount computed as follows:

(1) Ten percent of the total amount of the risk premiums written in the calendar year for title insurance contracts shall be assigned originally to the reserve; and

(2) During each of the 20 years next following the year in which the title insurance contract was issued, the reserve applicable to the contract shall be reduced by five percent of the original amount of such reserve.

(b) The insurer may credit upon the reserve provided for by this section the amount of its deposit made under section 27-3-13.

(c) Title insurance risk premium shall not include charges for abstracting, record searching, certificates as to the record title, escrow and closing services, and other related services which may be offered or furnished, or the costs and expenses of examination of titles.

§27-36-4. Same -- Marine and transportation insurance.

As to marine and transportation insurance, the entire amount of premiums on trip risks not terminated shall be deemed unearned, and the commissioner may require the insurer to carry a reserve equal to 100 percent of premiums on trip risks written during the month ended as of the date of statement.

§27-36-5. Active life reserve for disability insurance.

For all disability insurance policies, the insurer shall maintain an active life reserve which shall place a sound value on its liabilities under such policies and be not less than the reserve according to appropriate standards set forth in regulations issued by the commissioner and, in no event, less in the aggregate than the pro rata gross unearned premiums for such policies.

§27-36-6. Increase of inadequate loss reserves.

If loss experience shows that an insurer's loss reserves, however computed or estimated, are inadequate, the commissioner shall require the insurer to

maintain loss reserves in such increased amount as is needed to make them adequate.

§27-36-7. Standard Valuation Law.

(a) This section shall be known as the standard valuation law.

(b) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or others) used in the calculation of such reserves. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. In calculating such reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. He may accept in his discretion the insurer's calculation of such reserves. In lieu of the valuation of the reserves required in this title of any foreign or alien insurer, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided in this section, and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. Where any such valuation is made by the commissioner, he may use the actuary of the department or employ an actuary for the purpose, and the reasonable compensation and expenses of the actuary, at a rate approved by the commissioner, upon demand by the commissioner, supported by an itemized statement of such compensation and expenses, shall be paid by the insurer. When a domestic insurer furnishes the commissioner with a valuation of its outstanding policies as computed by its own actuary or by an actuary deemed satisfactory for the purpose by the commissioner, the valuation shall be verified by the actuary of the department without cost to the insurer.

(c) The minimum standard for the valuation of all such policies and contracts issued prior to January 1, 1972 shall be as required under laws in effect immediately prior to January 1, 1972, or the minimum provided in subsection (d) of this section, if less, except that the minimum standard for the valuation of annuities and pure endowments purchased under group annuity and pure endowment contracts issued prior to January 1, 1972 shall be that provided by the laws in effect prior to January 1, 1972 by replacing the interest rates specified in such laws by an interest rate of five percent per annum.

(d)(1) Except as otherwise provided in subdivisions (2) and (3) of this subsection, the minimum standard for the valuation of all such policies and contracts issued on or after January 1, 1972 shall be the commissioner's reserve valuation method defined in subsections (e) and (i) of this section, five percent interest for group annuities and pure endowment contracts and three and one-half percent interest for all other such policies and contracts or, in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after August 23, 1976, four percent interest, for such policies issued prior to July

30, 1979, and four and one-half percent interest for all other such policies issued on or after July 30, 1979, and the following tables:

a. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioner's 1958 standard ordinary mortality table for such policies issued prior to the operative date of subsection (j) of the standard nonforfeiture law for life insurance, as amended; except, that for any category of such policies issued on female risks, modified net premiums and present values, referred to in subsection (e) of this section, may be calculated according to an age not more than three years younger than the actual age of the insured and for any category of such policies issued on female risks on or after July 30, 1979, modified net premiums and present values, referred to in subsection (e), may be calculated according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date of subsection (j) of the standard nonforfeiture law for life insurance, as amended:

1. The commissioner's 1980 standard ordinary mortality table; or

2. At the election of the insurer for any one or more specified plans of life insurance, the commissioner's 1980 standard ordinary mortality table with 10-year select mortality factors; or

3. Any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

b. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioner's 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies;

c. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 standard annuity mortality table or, at the option of the insurer, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner;

d. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the group annuity mortality table for 1951, any modification of such table approved by the commissioner or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;

e. For total and permanent disability benefits in, or supplementary to, ordinary policies or contracts for policies or contracts issued on or after January 1, 1972, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of 1952 disability study of the society of actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted

after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued prior to January 1, 1972, either such tables or, at the option of the insurer, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserve for life insurance policies;

f. For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1972, the 1959 accidental death benefits table or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies issued prior to January 1, 1972, either such table or, at the option of the insurer, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;

g. For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner as being sufficient with relation to the benefits provided by such policies.

(2) Except as provided in subdivision (3) of this subsection, the minimum standards for the valuation of all individual annuity and pure endowment contracts issued on or after August 23, 1976, and for all annuities and pure endowments purchased on or after the operative date under group annuity and pure endowment contracts shall be the commissioner's reserve valuation method defined in subsection (e) of this section and the following tables and interest rates:

a. For individual annuity and pure endowment contracts issued on or after August 23, 1976 and prior to July 30, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts and four percent interest for all other individual annuity and pure endowment contracts;

b. For individual single premium immediate annuity contracts issued on or after July 30, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and seven and one-half percent interest;

c. For individual annuity and pure endowment contracts issued on or after July 30, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables

approved by the commissioner, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts;

d. For all annuities and pure endowments purchased on or after August 23, 1976 and prior to July 30, 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest;

e. For all annuities and pure endowments purchased on or after July 30, 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.

After August 23, 1976, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this subdivision after a specified date but before January 1, 1980, which shall be the operative date of this subdivision for such insurer; provided, that an insurer may elect a different operative date for individual annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this subdivision for such insurer shall be January 1, 1980.

(3) a. The interest rates used in determining the minimum standard for the valuation of:

1. all life insurance policies issued in a particular calendar year, on or after the operative date of subsection (j) of the standard nonforfeiture law for life insurance;

2. all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;

3. all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982 under group annuity and pure endowment contracts; and

4. the net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts;

shall be the calendar year statutory valuation interest rates as defined in this subdivision.

b. 1. The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearest one-quarter of one percent:

(i) For life insurance,

$$I = .03 + W (R1 - .03) + W/2 (R2 - .09);$$

(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W (R - .03),$$

where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in this subdivision, and W is the weighting factor defined in this subdivision;

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in item (ii) of this paragraph, the formula for life insurance stated in item (i) of this paragraph shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in item (ii) of this paragraph shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less;

(iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in item (ii) of this paragraph shall apply;

(v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in item (ii) of this paragraph shall apply.

2. However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when subsection (j) of the standard nonforfeiture law for life insurance becomes operative.

c. The weighting factors referred to in the formulas stated in paragraph b. of this subsection are given in the following tables:

1. Weighting Factors for Life Insurance

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

2. Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80;

3. Weighting factors for other annuities and for guaranteed interest contracts, except as stated in subparagraph 2. of this paragraph, shall be as specified in tables in items (i), (ii), and (iii) below, according to the rules and definitions in items (iv), (v) and (vi) below:

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
ore than 20:	.45	.35	.35

(ii) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in item (i) of this subparagraph increased by:

Plan Type		
A	B	C
.15	.25	.05

(iii) For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in item (i) of this subparagraph or derived in item (ii) of this subparagraph increased by:

Plan Type
A B C

	.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer, or (2) without such adjustment but in installments over five years or more, or (3) as an immediate life annuity or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer, or (2) without such adjustment but in installments over five years or more or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis.

As used in this subdivision, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund

basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

d. The reference interest rate referred to in paragraph b. of this subdivision shall be defined as follows:

1. For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average -- Monthly Average Corporates, as published by Moody's Investors Service, Inc.

2. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average -- Monthly Average Corporates, as published by Moody's Investors Service, Inc.

3. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subparagraph 2. of this paragraph, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average -- Monthly Average Corporates as published by Moody's Investors Service, Inc.

4. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subparagraph 2. of this paragraph, with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average -- Monthly Average Corporates as published by Moody's Investors Service, Inc.

5. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average -- Monthly Average Corporates, as published by Moody's Investors Service, Inc.

6. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in subparagraph 2. of this paragraph, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average -- Monthly Average Corporates as published by Moody's Investors Service, Inc.

e. In the event that Moody's Corporate Bond Yield Average -- Monthly Average Corporates is no longer published by Moody's Investors Service, Inc. or in the event that the National Association of Insurance Commissioners determines

that Moody's Corporate Bond Yield Average -- Monthly Average Corporates, as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the commissioner, may be substituted.

(e) (1) Except as otherwise provided in subdivisions (3) and (4) of this subsection and in subsection (i) of this section, reserves, according to the commissioner's reserve valuation method, or reserves for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits, excluding extra premiums on a substandard policy, that the present value at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of paragraph a. over paragraph b. of this subdivision as follows:

a. A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year divided by the present value, at the date of issue, of an annuity of one percent per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy; and

b. A net one-year term premium for such benefits provided for in the first policy year;

provided, that for any life insurance policy issued on or after January 1, 1985 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection (i) of this section, be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph and the reserve as of such policy anniversary calculated as described in that paragraph, but with (i) the value defined in subparagraph a. of that paragraph being reduced by 15 percent of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subsection (d) of this section, shall be used.

(2) Reserves according to the commissioner's reserve valuation method for:

a. Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

b. Group annuity and pure endowment contracts purchased under a retirement plan or a plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended;

c. Disability and accidental death benefits in all policies and contracts; and

d. All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts

shall be calculated by a method consistent with the principles of subdivision (1) of this subsection.

(3) Subdivision (4) of this subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

(4) Reserves, according to the commissioner's annuity reserves method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(f) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after January 1, 1972, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (e), (i) and (j) of this section and the mortality table, or tables, and rate, or rates, of interest used in calculating nonforfeiture benefits for such policies.

(g) (1) Reserves for all policies and contracts issued prior to January 1, 1972 may be calculated, at the option of the insurer, according to any standards

which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date; and

(2) For any category of policies, contracts or benefits specified in subsection (d) of this section issued on or after January 1, 1972, reserves may be calculated, at the option of the insurer, according to any standard, or standards, which produce greater aggregate reserves for such category than those calculated according to the minimum standard provided in this section, but the rate, or rates, of interest used for such policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate, or rates, of interest used in calculating any nonforfeiture benefits provided for therein.

(h) An insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this section may, with written notice thereof to the commissioner, adopt any lower standard of valuation, but not lower than the minimum provided in this section.

(i) If in any contract year the gross premium charged by any life insurer on any policy or contract issued on or after January 1, 1972 is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon, but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsections (c) and (d) of this section.

Provided that for any life insurance policy issued on or after January 1, 1985 for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subdivisions (1) and (2) of subsection (e) of this section, ignoring the second paragraph of subdivision (1) of subsection (e) of this section. The minimum reserve at each policy anniversary of such policy shall be the greater of the minimum reserve calculated in accordance with subsection (e) of this section, including the second paragraph of subdivision (1) of subsection (e) of this section, and the minimum reserve calculated in accordance with this subsection.

(j) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (e) and (i) of this section, the reserves which are held under any such plan must:

(1) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(2) Be computed by a method which is consistent with the principles of this standard valuation law, as determined by regulations promulgated by the commissioner.

§27-37-1. Assets -- Generally.

In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(1) Cash in the possession of the insurer or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company;

(2) Investments, securities, properties and loans acquired, or held, in accordance with this title and in connection therewith the following items:

a. Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest;

b. Declared and unpaid dividends on stock and shares, unless such amount has otherwise been allowed as an asset;

c. Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon;

d. Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the commissioner a collectible asset;

e. Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of 18 months be allowed as an asset;

f. Rent due or accrued on real property if such rent is not in arrears for more than three months and rent more than three months in arrears if the payment of such rent is adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral; and

g. The unaccrued portion of taxes paid prior to the due date on real property;

(3) Premium notes, policy loans and other policy assets and liens on policies and certificates of life insurance and annuity contracts, and accrued interest thereon, in an amount not exceeding the legal reserve and other policy liabilities carried on each individual policy;

(4) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer;

(5) Premiums in the course of collection, other than for life insurance, not more than three months past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable, directly or indirectly, by the United States government or by any of its instrumentalities;

(6) Installment premiums other than life insurance premiums to the extent of the unearned premium reserve carried on the policy to which premiums apply;

(7) Notes and like written obligations not past due taken for premiums, other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon;

(8) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under section 27-5-12;

(9) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty;

(10) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds or from any suspended banking institution, to the extent deemed by the commissioner available for the payment of losses and claims and at values to be determined by him;

(11) Electronic and mechanical machines constituting a data processing and accounting system if the cost of such system is at least \$10,000.00, which costs shall be amortized in full over a period not to exceed 10 calendar years;

(12) All assets, whether or not consistent with the provisions of this section, as may be allowed pursuant to the annual statement form approved by the commissioner for the kinds of insurance to be reported upon therein; and

(13) Other assets, not inconsistent with the provisions of this section, deemed by the commissioner to be available for the payment of losses and claims, at values to be determined by him.

§27-37-2. Same -- Exclusions.

In addition to assets impliedly excluded by the provisions of section 27-37-1, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Good will, trade names and other like intangible assets;

(2) Advances to officers, directors and controlling stockholders, other than policy loans, unless the same are secured by collateral satisfactory to the commissioner, and advances to employees, agents and other persons on personal security only;

(3) Stock of such insurer owned by it, or any equity therein, or loans secured thereby or any material proportionate interest in such stock acquired, or held, through the ownership by such insurer of an interest in another firm, corporation or business unit;

(4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature and supplies, except:

a. Such personal property as is required through foreclosure of chattel mortgages under loans insured or guaranteed under provisions of the National Housing Act or any act of congress relating to veterans benefits;

b. Such as is reasonably necessary for the maintenance and operation of real estate held by it other than real estate for home office, branch office and similar purposes; and

c. In the case of title insurers, abstract plant and equipment not to exceed 50 percent of the paid-in capital stock of such title insurer; and

(5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof, as determined under this title.

§27-37-3. Assets and liabilities as deductions.

Assets may be allowed as deductions from corresponding liabilities, and liabilities may be charged as deductions from assets and deductions from assets may be charged as liabilities in accordance with the form of an annual statement applicable to the insurer as prescribed by the commissioner or otherwise in his discretion.

§27-37-4. Disallowance of assets or credits for deception.

(a) The commissioner shall disallow as an asset or as a credit against liabilities any reinsurance found by him after a hearing thereon to have been arranged for on a temporary basis for the purpose principally of deception as to the ceding insurer's financial condition as at the date of any financial statement of the insurer. Reinsurance of any substantial part of the insurer's outstanding risks contracted for in fact within 90 days prior to the date of any such financial statement and cancelled in fact within 90 days after the date of such statement shall prima facie be deemed to have been arranged for the purpose of deception within the intent of this section.

(b) The commissioner shall disallow as an asset any deposit, funds or other assets of the insurer found by him after a hearing thereon:

(1) Not to be in good faith the property of the insurer;

(2) Not freely subject to withdrawal or liquidation by the insurer at any time for the payment or discharge of claims or other obligations arising under its policies; and

(3) To be resulting from arrangements made principally for the purpose of deception as to the insurer's financial condition as at the date of any financial statement of the insurer.

(c) No such disallowance of assets or credits shall be valid unless made by the commissioner after a hearing of which notice was given the insurer within six

months after the date the financial statement of the insurer as to which such deception is claimed was filed with the commissioner.

(d) The commissioner may suspend or revoke the certificate of authority of any insurer which has knowingly been a party to any such deception or attempt thereof.

§27-37-5. Valuation -- Bonds and other evidences of debt.

(a) All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer shall, if amply secured and not in default as to principal or interest, be valued as follows:

(1) If purchased at par, at the par value;

(2) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made or, in lieu of such method, according to such accepted method of valuation as is approved by the commissioner;

(3) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities; and

(4) Unless otherwise provided by valuation established or approved by the commissioner, no such security shall be carried at above the call price for the entire issue during any period within which the security may be so called.

(b) The commissioner shall have full discretion in determining the method of calculating values according to the rules set forth in this section, but no such method or valuation shall be inconsistent with any applicable valuation or method currently accepted and in use among insurers in general.

§27-37-6. Same -- Other securities; preferred or guaranteed stocks or shares.

(a) Securities, other than those referred to in section 27-37-5, held by an insurer shall be valued, in the discretion of the commissioner, at their market value, or at their appraised value or at prices determined by him as representing their fair market value.

(b) Preferred or guaranteed stocks or shares, while paying full dividends, may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and in accordance with such method of valuation as he may approve.

(c) No valuation under this section shall be inconsistent with any applicable valuation or method currently accepted and in use among insurers in general.

§27-37-7. Same -- Real property and personal property acquired pursuant to chattel mortgages.

(a) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the commissioner to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(b) Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal. If valuation is based on an appraisal more than three years old, the commissioner may at his discretion call for and require a new appraisal in order to determine fair value.

(c) Personal property acquired pursuant to chattel mortgages shall not be valued at an amount greater than the unpaid balance of principal on the defaulted loan at the date of acquisition, together with taxes and expenses incurred in connection with such acquisition or the fair value of such property, whichever amount is the lesser.

§27-37-8. Same -- Funeral supplies and equipment.

Funeral supply inventories owned by the insurer shall be valued at an amount not exceeding cost to the insurer or market value, whichever is lower. Funeral equipment owned by the insurer shall be valued at an amount not in excess of cost to the insurer reduced by depreciation at the rate of not less than 18 percent per annum from date of acquisition of such equipment.

§27-37-9. Same -- Purchase money mortgages.

Purchase money mortgages on real property shall be valued in an amount not exceeding the acquisition cost of the real property covered thereby or the unpaid balance of the debt secured by such mortgage, whichever is less.

§27-38-1. Establishment of separate accounts by life insurers to provide for life insurance or annuities and benefits incidental thereto.

A life insurer organized under the laws of this state may, by or pursuant to a resolution of its board of directors, establish one or more separate accounts and may allocate thereto amounts, including without limitation proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities, and benefits incidental thereto, payable in fixed or variable amounts or both, subject to the following:

(1) The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to, or charged against, the account, without regard to other income, gains or losses of the insurer;

(2) Except as provided in this section, amounts allocated to any separate account, and accumulations thereon, may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurers; provided, however, that to the extent that the insurer's reserve liability with regard to:

a. Benefits guaranteed as to dollar amount and duration; and

b. Funds guaranteed as to principal amount or stated rate of interest are maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be, except as the commissioner may otherwise approve, invested in accordance with the laws of this state governing the investments of life insurers.

The investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the insurer;

(3) With respect to 75 percent of the market value of the total assets in a separate account, no insurer shall purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal or interest by the United States, if immediately after such purchase or acquisition the market value of such investment, together with prior investments of such separate account in such security taken at market, would exceed 10 percent of the market value of the assets of said separate account; provided, however, that the commissioner may waive such limitation if, in his opinion, such waiver will not render the operation of such separate account hazardous to the public or the policyholders in this state;

(4) Unless otherwise approved by the commissioner, no insurer shall purchase or otherwise acquire for its separate accounts:

a. Any securities of any subsidiary of the insurer; or

b. More than 10 percent of the total issued and outstanding voting securities of any other single issuer; provided, however, that the foregoing shall not apply with respect to securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in such accounts;

(5) The limitations provided in subdivisions (3) and (4) of this section shall not apply to the investment with respect to a separate account in the securities of an investment company registered under the Investment Company Act of 1940, provided that the investments of such investment company comply in substance with subdivisions (3) and (4) of this section.

(6) Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation or, if there is no readily available market, then as provided under the terms of the contract, or the rules or other written agreement applicable to such separate account; provided, however, that, unless otherwise approved by the commissioner, the portion of the assets of such separate account equal to the insurer's reserve liability with regard to the guaranteed benefits and funds referred to in paragraphs (2) a and (2) b of this section, if any, shall be valued in accordance with the rules otherwise applicable to the insurer's assets;

(7) Amounts allocated to a separate account in the exercise of the power granted by this section shall be owned by the insurer, and the insurer shall not be, nor hold itself out to be, a trustee with respect to such amounts. That portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the insurer may conduct;

(8) To the extent such insurer deems it necessary to comply with any applicable federal or state laws, such insurer, with respect to any separate account, including, without limitation, any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including, without limitation, special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants and the selection of a committee, the members of which need not be otherwise affiliated with such insurer, to manage the business of such account; and

(9) No sale, exchange or other transfer of assets may be made by an insurer between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made and unless such transfer, whether into or from a separate account, is made:

a. By a transfer of cash; or

b. By a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the commissioner.

The commissioner may approve other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

§27-38-2. Variable contracts -- Statement of procedures for determining benefits; death benefit provision.

(a) Any variable contract providing benefits payable in variable amounts delivered, or issued for delivery, in this state shall contain a statement of the essential features of the procedures to be followed by the insurer in determining the dollar amount of such variable benefits. Any such contract, including a group contract, and any certificate in evidence of variable benefits issued thereunder shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

(b) Variable annuity contracts delivered, or issued for delivery, in this state may include as an incidental benefit provision for payment on death during the deferred period of an amount not in excess of the greater of the sum of the premiums or stipulated payments paid under the contract or the value of the contract at time of death. Any such provision shall not be deemed to be life insurance and therefore shall not be subject to the provisions of this title governing

life insurance contracts. A provision for any other benefit on death during the deferred period shall be subject to this title.

§27-38-3. Same – Licensing of insurer.

(a) No insurer shall deliver, or issue for delivery, within this state variable contracts unless it is licensed to do a life insurance or annuity business in this state and the commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the commissioner shall consider among other things:

(1) The history and financial condition of the insurer;

(2) The character, responsibility and fitness of the officers and directors of the insurer; and

(3) The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts.

(b) If the company is a subsidiary of an admitted life insurer or affiliated with such insurer through common management or ownership, it may be deemed to have met the provisions of the section if either it or the parent or affiliated company meets the requirements of this section.

§27-38-4. Same – Rules and regulations.

Notwithstanding any other provision of law, the commissioner shall have sole authority to regulate the issuance and sale of variable contracts and the licensing of persons selling such contracts and to issue reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of this chapter.

§27-38-5. Reserve liability for variable contracts.

The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

§27-38-6. Applicability of title.

Except for sections 27-15-16, 27-15-17, 27-15-22, 27-15-23 and 27-15-28.1 of this title, in the case of a variable annuity contract, and sections 27-15-2, 27-15-3, 27-15-8.1, 27-15-9, 27-15-10, 27-15-11 and 27-15-28 of this title, in the case of a variable life insurance policy, and except as otherwise provided in this chapter, all pertinent provisions of this title shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this state shall contain grace, reinstatement and nonforfeiture provisions appropriate to such a contract.

§27-39-1. Definitions.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **AUTOMOBILE CLUB OR ASSOCIATION.** A legal entity which, in consideration of dues, assessments or periodic payments of money, promises its members or subscribers to assist them in matters relating to the ownership, operation, use or maintenance of a motor vehicle; provided, however, that the definition of automobile clubs shall not include persons or associations or corporations which are organized and operated solely for the purpose of conducting, sponsoring or sanctioning motor vehicle races, exhibitions or contests upon race tracks or upon race courses established and marked as such for the duration of such particular event.

(2) **COMMISSIONER.** The commissioner of insurance of the state of Alabama.

§27-39-2. Applicability of chapter.

This chapter shall be deemed and held exclusive authority for the organization and operation of automobile clubs and associations within this state, and such clubs and associations shall not be subject to any other laws respecting insurance companies of any class, kind or character except as to the conduct of hearings by the commissioner and appeals therefrom; provided, however, that this chapter shall not affect the validity of any membership certificate of any automobile club or association issued and outstanding prior to January 1, 1972. Notwithstanding the aforementioned, nothing in this chapter shall be construed as authority for a licensed automobile club or association to provide or furnish insurance coverage unless such clubs shall have complied with all the laws and regulations required of insurance companies authorized to do business in this state.

§27-39-3. Incorporation and license requirements.

No automobile club or association shall do, or offer to do, business in the state unless the same shall be organized as a domestic or foreign corporation and shall be licensed by the commissioner.

§27-39-4. Clubs and associations to be under authority, etc., of commissioner.

All automobile clubs and associations now organized and/or operating in the state of Alabama and all automobile clubs and associations hereafter organized and/or operating in the state of Alabama shall be under the authority, supervision and control of the commissioner.

§27-39-5. Powers of commissioner.

(a) The commissioner shall have full and complete authority to grant certificates of authorization to automobile clubs and associations, to revoke such certificates and to prescribe such rules and regulations as are reasonably necessary for the conduct of the business of such clubs and associations within the state and for carrying out the objects and purposes of this chapter. In deter-

mining if a certificate of authorization shall be issued, the commissioner shall take into consideration, along with all other factors, the name of the automobile club or association; and, if such name, emblem or trademark is distinctive and not likely to mislead the public as to the nature or identity of the corporation using it or interfere with the transactions of any other automobile club already doing business in the state, it shall be entitled to be approved.

(b) The commissioner shall also have the authority to conduct hearings as provided under this title.

§27-39-6. Application for certificate of authority; annual license fee; issuance of license.

(a) Within 30 days after January 1, 1972, every automobile club or association organized and/or operating in the state of Alabama shall file with the commissioner an application for a certificate of authority to continue said operations within the state, and every automobile club or association desiring to commence operations within the state shall, prior to the commencement of said operation, file application with and receive a certificate of authority from the commissioner. No certificate of authority shall be issued until the automobile club or association has paid to the commissioner \$250.00 as an annual license fee, which fee shall not be returnable. Licenses shall be issued for the period beginning January 1 of each year and shall expire on the following December 31. The commissioner shall deposit all fees collected in the state treasury to the credit of the general fund.

(b) The following documents and information shall be filed with the application of all such clubs and associations:

(1) The sum of \$25,000.00 in cash or securities, as approved by the commissioner and deposited in trust with the state treasurer or, in lieu thereof, a surety bond payable to the commissioner in the amount of \$25,000.00 of a surety company authorized to do business in this state, conditioned upon the full compliance with this chapter and the faithful performance of the obligations of such club or association to its members. The bonds shall be approved by the commissioner and shall not be cancelled without 30 days' notice to the commissioner. If such bond is filed, any person defrauded or injured by any wrongful act, misrepresentation or failure on the part of a motor club with respect to selling or rendering of any service may maintain an action on such bond in his own name. Upon receipt of notice of the intended dissolution of such automobile club or association and upon receipt of notice of evidence satisfactory to the commissioner that all obligations of the club or association to its members and creditors have been satisfied, the state treasurer, upon written authorization from the commissioner, shall refund said money or securities and the obligations of said bond shall terminate;

(2) Appointment of an agent for service of process who shall be a resident of the state of Alabama or, in lieu thereof, the commissioner; and

(3) A copy of the proposed form of membership application, membership certificate, bylaws, contracts for service and any other material, including advertising matter, requested by the commissioner.

(c) If the commissioner shall be satisfied that the applicant is competent and trustworthy and possesses the professional ability to perform the services and that he meets all the requirements of this chapter, he shall issue to the applicant a certificate of authority to conduct the business of such automobile club or association within this state.

§27-39-7. Licensing of agents and representatives; control over same by commissioner.

(a) Before any agent or representative shall or may represent any automobile club or association in this state, he, or she, shall first apply to the commissioner for a license, and the commissioner shall have full power and authority to issue such license upon proof satisfactory to him that such person is capable of soliciting automobile club or association memberships and is of good moral character and recommended by the club or association in behalf of which such membership solicitations are to be made; provided, however, that no such license shall be issued by the commissioner until the applicant has paid to the commissioner an annual license fee of \$10.00.

(b) No employee or salesman of an automobile club shall, directly or indirectly, be licensed to solicit, negotiate or hold himself out in any manner to be an insurance agent or solicitor to effect insurance contracts unless it is in accordance with the provisions of the insurance laws.

(c) The commissioner may reject the application of any person who does not meet the requirements set out in this section and shall have the same powers with respect to the suspension, revocation, renewal and reinstatement of such licenses as are conferred with respect to insurance agents, other than life, by section 27-7-19.

§27-39-8. Penalty for violation of chapter.

It shall be unlawful for any person, firm, association, copartnership, corporation, company or other organization to organize, operate or in any way solicit members for an automobile club or association or to offer any of the motor club services as defined in section 27-39-1 except in the manner provided in this chapter and under the rules and regulations promulgated by the commissioner. Any person, firm, association, copartnership, corporation, company or other organization violating the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding \$500.00, or be imprisoned not exceeding six months or punished by both fine and imprisonment, in the discretion of the court.

§27-40-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) **INSURANCE PREMIUM FINANCE COMPANY.** A person engaged in the business of entering into premium finance agreements.

(2) **PREMIUM FINANCE AGREEMENT.** An agreement by which an insured or prospective insured promises to pay to a premium finance company the amount

advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance contract together with a service charge, as authorized and limited by this chapter.

(3) **LICENSEE.** A premium finance company holding a license issued under this chapter.

(4) **PERSON.** An individual, partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company or any other group of individuals however organized.

(5) **INSURANCE CONTRACT.** The policy or contract of insurance which is the subject of premium financing under this chapter.

(6) **DESIGNATED AGENT.** An insurance agent or managing general agent designated by an insurance company to act on its behalf on matters pertaining to the financing of premiums on insurance contracts issued by such company.

§27-40-2. Exemptions from chapter.

THIS SECTION WAS AMENDED IN THE 1994 REGULAR SESSION AND IS NOT IN THE CURRENT CODE SUPPLEMENT.

The provisions of this chapter shall not apply with respect to any of the following:

(1) Any insurance company licensed to do business in this state.

(2) Any banking or other financial institution regulated by the state, or savings and loan association, or credit union authorized to do business in this state, or any national banking institution or federal savings and loan association incorporated under the laws of the United States and located within this state.

(3) A charge for insurance in connection with an installment sale of a motor vehicle or boat or mobile home.

(4) The financing of insurance premiums in this state in accordance with the provisions of this title relating to rates of insurance.

(5) Any insurance agent or agency licensed in Alabama that charges a collection fee on unpaid balances for insurance premiums under Section 27-12-17 or under the Alabama Consumer Credit Act.

§27-40-3. Licenses -- Required; fees; information to be furnished commissioner.

(a) No person shall engage in the business of financing insurance premiums in this state without first having obtained a license as a premium finance company from the commissioner. Any person who shall engage in the business of financing insurance premiums in this state without first having obtained a license as provided herein shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not more

than one year, or both.

(b) The annual license fee shall be \$200.00; provided, that an insurance agency which finances its own business of less than \$150,000.00 in premiums annually shall pay a fee of \$50.00. The fee for said license shall be paid into the insurance department examination revolving fund and the same is hereby appropriated for that use.

(c) The person to whom the license or the renewal thereof may be issued shall file sworn answers subject to the penalties of perjury to such interrogatories as the commissioner may require. The commissioner shall have authority at any time to require the applicant fully to disclose the identity of all stockholders, partners, officers and employees and he may in his discretion refuse to issue or renew a license in the name of any firm, partnership or corporation if he is not satisfied that any officer, employee, stockholder or partner thereof who may materially influence the applicant's conduct meets the standards of this section.

§27-40-4. Same -- Investigation and qualifications of applicant; issuance.

(a) Upon the filing of an application and the payment of the license fee the commissioner shall make an investigation of each applicant and shall issue a license if the applicant is qualified in accordance with this section. If the commissioner does not so find, he shall, within 30 days after he has received such application, at the request of the applicant, give the applicant a full hearing.

(b) The commissioner shall issue or renew a license as may be applied for when he is satisfied that the person to be licensed:

(1) Is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(2) Has a good business reputation and has had experience, training or education, so as to be qualified in the business for which the license is applied for; and

(3) If a corporation, is a corporation incorporated under the laws of this state or a foreign corporation authorized to transact business in this state.

§27-40-5. Same -- Suspension or revocation.

(a) The commissioner may revoke or suspend the license of any premium finance company when, and if, after complaint and investigation, it appears to the commissioner that:

(1) Any license issued to such company was obtained by fraud;

(2) There were any misrepresentations in the application for the license;

(3) The holder of such license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company;

(4) Such company has violated any of the provisions of this chapter; or

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(5) No license shall issue or remain in force if any principal of the licensee has been convicted of a crime involving moral turpitude.

(b) Before the commissioner shall revoke, suspend or refuse to renew the license of any premium finance company, the aggrieved person shall be entitled to a hearing in accord with administrative procedures in effect in this state or if no such administrative procedures are set out, then in the same manner as provided in section 27-2-28 et seq. In lieu of revoking or suspending the license for any of the causes enumerated in this section, after hearing as herein provided, the commissioner may subject such company to a penalty of not more than \$200.00 for each offense but not more than a maximum of \$5,000.00 in the event multiple violations occurred, when in his judgment he finds that the public interest would not be harmed by the continued operation of such company. The amount of any such penalty shall be paid by such company to the commissioner.

(c) If the commissioner refuses to issue to any person a license as a premium finance company, or he revokes, suspends or refuses to renew the license of any premium finance company or he imposes a penalty on such company, after a hearing as provided under subsection (b), the applicant or licensee may appeal from such refusal to issue a license or from such adjudication in accordance with section 27-2-32 et seq.

§27-40-6. Books and records.

(a) Every licensee shall maintain records of its premium finance transactions and the said records shall be open to examination and investigation by the commissioner. The commissioner may at any time require any licensee to bring such records as he may direct to the commissioner's office for examination.

(b) Every licensee shall preserve its records of such premium finance transactions including cards used in a card system, if any, for at least three years after making the final entry in respect to any premium finance agreement. The preservation of records in photographic form shall constitute compliance with this requirement.

§27-40-7. Promulgation and enforcement of rules and regulations.

The commissioner shall have authority to make and enforce such reasonable rules and regulations as may be necessary in making effective the provisions of this chapter, but such rules and regulations shall not be contrary to nor inconsistent with the provisions of this chapter.

§27-40-8. Contents and style of premium finance agreement.

(a) The contents and style of the premium finance agreement shall be as follows:

(1) It shall be dated, signed by the insured or an authorized representative and the printed portion thereof shall be in at least eight-point type;

(2) Contain the name and place of business of the insurance agent negotiating the related insurance contract, the name and residence, or place of

business, of the insured as specified by him, the name and place of business of the premium finance company to which payments are to be made, a description of the insurance contracts involved and the amount of the premium therefor; and

(3) Set forth the following items where applicable:

- a. The total amount of the premiums;
- b. The amount of the down payment;
- c. The principal balance (the difference between items a and b);
- d. The amount of the service charge;
- e. The balance payable by the insured (sum of items c and d); and

f. The number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

(b) The items set out need not be stated in the sequence or order in which they appear, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

§27-40-9. Service charges; prepayment of obligation.

(a) For the purpose of this section, "consumer insurance premium finance agreement" means an insurance premium finance agreement as defined in section 27-40-1 wherein the insurance contracts which are the subject of the premium finance agreement are for personal, family or household purposes or where the premiums for those agreements are \$2,000.00 or less. For the purpose of this section, "commercial premium finance agreement" means any insurance premium finance agreement other than a consumer premium finance agreement.

(b) A premium finance company shall not charge, contract for, receive, or collect a service charge other than in accordance with the following provisions:

(1) The service charge is to be computed on the balance of the premium due, after subtracting the down payment made by the insured in accordance with the premium finance agreement, from the effective date of the insurance for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

(2) The service charge per consumer insurance premium finance agreement shall be a maximum of \$9.00 per \$100.00 per annum plus an additional charge, which shall not exceed \$15.00 per premium finance agreement, which additional charge need not be refunded.

(3) The service charge for a commercial insurance premium finance agreement shall be a maximum \$9.00 per \$100.00 per annum plus an additional charge, which shall not exceed \$15.00 per premium finance agreement, which additional charge need not be refunded.

(c) Notwithstanding the provisions of any premium finance agreement, any insured may prepay the obligation in full at any time. In such event he shall receive a credit or refund under the rule of 78ths or the sum of the digits principle as follows: The amount of the refund or credit shall be as great a proportion of the finance charge originally contracted for as the sum of the periodic time balances of the debt scheduled to follow the date of prepayment bears to the sum of all the periodic time balances of the debt, both sums to be determined according to the scheduled payment originally contracted for. No refund of less than \$1.00 need be made. If such prepayment is made by the debtor other than on a scheduled payment date, the nearest scheduled payment date shall be used in such computation. If, in addition to the service charge, an additional charge was imposed, such additional charge need not be refunded, nor taken into consideration in computing the credit refund.

§27-40-10. Delinquency and cancellation charges.

A premium finance agreement may provide for the payment by the insured of the delinquency charge of \$1.50 to a maximum of five percent of the delinquent installment which is in default for a period of five days or more. If the default results in the cancellation of any insurance contract listed in the agreement, the agreement may provide for the payment by the insured of a cancellation charge of \$5.00 in the case of a consumer insurance premium finance agreement and \$15.00 in the case of a commercial insurance premium finance agreement.

§27-40-11. Procedure for cancellation of insurance contract upon default.

(a) When a premium finance agreement contains a power of attorney enabling the premium finance company to cancel any insurance contract or contracts listed in the agreement, the insurance contract or contracts shall not be cancelled by the premium finance company unless such cancellation is effectuated in accordance with this section.

(b) Not less than 10-day written notice shall be mailed to the insured, at his last known address as shown on the records of the premium finance company, of the intent of the premium finance company to cancel the insurance contract unless the default is cured within such 10-day period.

(c) After the notice in subsection (b) of this section has expired, the premium service company may thereafter request, in the name of the insured, cancellation of such insurance contract by mailing to the insurer a notice of cancellation, and the insurance contract shall be cancelled as if such notice of cancellation had been submitted by the insured himself, but without requiring the return of the insurance contract. The premium service company shall also mail a notice of cancellation to the insured at his last address as set forth in its records, and such mailing shall constitute sufficient proof of delivery.

(d) All statutory, regulatory and contractual restrictions providing that the insurance contract may not be cancelled unless notice is given to a governmental agency, mortgagee or other third party shall apply where cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice in behalf of itself or the insured to any governmental agency, mortgagee or other third party on or before the second business day after the day it receives the

notice of cancellation from the premium finance company and shall determine the effective date of cancellation taking into consideration the number of days' notice to complete the cancellation.

§27-40-12. Return of gross unearned premiums upon cancellation of contract.

(a) Whenever a financed insurance contract is cancelled, the insurer or its designated agent, upon written notice of such financing, shall return whatever gross unearned premiums are due under the insurance contract to the premium finance company, either directly or via the agent, agency or broker placing the insurance, for the account of the insured or insureds. Provided, however, that if the insurer or its designated agent elects to return such unearned premiums to the premium finance company for the account of the insured or insureds, via the agent, agency or broker placing such insurance, the insurer shall be directly responsible to the premium finance company for any and all unearned premiums due to the premium finance company under the contract which are not properly returned to the premium finance company; and provided, further, that regardless of the method of the routing of the return of such unearned premiums to the insured or insureds, the insurer, the premium finance company and any agent or broker involved in the return of such unearned premiums shall be jointly and severally liable to the insured or insureds for any and all unearned premiums due to the insured or insureds under the insurance contract which are not properly returned to the insured or insureds.

(b) In the event that the crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund such excess to the insured or his insurance agent, agency or broker, provided that no such refund shall be required if it amounts to less than \$1.00.

(c) All refunds of unearned premiums shall be made to the insured as soon as reasonably possible but in any event within 60 days of the date of cancellation of the insurance contract regardless of the method of routing of such unearned premiums.

(d) Notwithstanding anything to the contrary contained in this section:

(1) The insurance company or its designated agent shall have the right to credit to the account of or refund to the agent, agency or broker placing the insurance any or all unearned premiums on cancelled insurance contracts whose premiums were financed but which were not disbursed in accordance with the provisions of section 27-40-15; and, thereafter the premium finance company shall have no right to recover such unearned premiums except from the agent, agency or broker to whom refund was made or credit allowed in account.

(2) The insurance company shall not be relieved of its duty or obligation to return to the insured any unearned premium in excess of the balance owed by the insured to the premium finance company on any cancelled insurance contract issued by said insurance company.

§27-40-13. Filing of agreement.

No filing of the premium finance agreement shall be necessary to perfect the validity of such agreement as a secured transaction as against creditors, subsequent purchasers, pledges, encumbrances, successors or assigns.

§27-40-14. Exclusive jurisdiction of department of insurance.

When a premium finance company has complied with the licensing provisions of this chapter, it shall not be subject to any other licensing or regulatory agency of the state of Alabama other than the department of insurance.

§27-40-15. Premium financed to be sent to insurance company; designation of agents; issuance of drafts, etc.; recovery of unearned premiums; duties with respect to cancellation.

(a) The amount of premium financed, more specifically referred to as "the principal balance" in paragraph (3)c of section 27-40-8, shall be sent directly to the insurance company or companies whose premium for an insurance contract is the subject of financing under any premium finance agreement. The insurance company may, however, designate any insurance agent or managing general agent duly licensed by the insurance department of the state of Alabama, or any number of such agents, to receive such funds on its behalf by filing in writing the name and business address of such agent or agents with the insurance department. Thereafter, the agent or managing general agent so designated shall act with full authority on behalf of the insurance company on all matters pertaining to the acceptance of premiums financed, cancellation of the insurance contract and refund of unearned premiums. It shall be the duty of the premium finance company to ascertain from the insurance department the name of all agents, if any, so designated by the company.

(b) All drafts, checks or other orders of payment issued for premiums financed shall be issued by the premium finance company and shall be mailed, delivered, or otherwise transmitted directly to the insurance company or its designated agent. No insurance agent, insurance broker, managing general agent or any person employed by any of the aforementioned may be authorized or permitted to issue or sign any draft, check or other order of payment on behalf of such premium finance company unless the premium finance company is owned by or under the financial control of the agent, broker or managing general agent or an insurance agency operated by such agent, broker or managing general agent. The premium finance company shall not make available any presigned check, draft or other order or form of payment to any insurance agent, insurance broker, managing general agent or other person.

(c) With respect to any premiums financed which are not disbursed in accordance with this section, the right of recovery by the premium finance company of any unearned premiums shall be limited as provided in section 27-40-12.

(d) Notwithstanding anything to the contrary contained in this section, the insurance company shall not be relieved of any of its duties or responsibilities with respect to the cancellation of any insurance contract which is subject to the premium finance agreement.

§27-40-16. Payment of rebates or inducements prohibited; purchase of premium finance agreement.

No premium finance company and no employee of such a company shall pay, allow, or offer to pay or allow in any manner whatsoever to the insurance agent, insurance broker, or managing general agent, or any employee of any of the aforesaid, or to any other person, either as an inducement to the financing of any insurance contract with the premium finance company, or, after any such contract has been financed, any rebate whatsoever, either from the service charge for financing specified in the premium finance agreement or otherwise, or shall give or offer to give any valuable consideration or inducement of any kind directly, but a premium finance company may purchase or otherwise acquire a premium finance agreement, provided that it conforms to the provisions of this chapter, in all respects, from another premium finance company on such terms and conditions as may be mutually agreed upon.

§27-40-17. Notification of existence of premium finance agreement.

Any premium finance company which enters into a premium finance agreement under the provisions of this chapter shall notify the insurer or its designated agent, whose premiums are being financed, of the existence of such agreement within a reasonable period of time, not to exceed 30 days after the date such agreement is signed.

§27-40-18. Delivery of copy of premium finance agreement to insured.

Prior to the due date of the first installment payable under a premium finance agreement, the premium finance company holding the agreement shall deliver to the insured, or mail to him at his or her address as shown in the agreement, a copy thereof.

§27-41-1. Applicability of chapter.

Except as provided in Section 27-41-39, this chapter shall apply to all domestic insurers and health maintenance organizations.

§27-41-2. Definitions.

As used in this chapter, the following terms shall have the respective meanings herein set forth, unless the context shall otherwise require:

(1) **ALABAMA INSURANCE CODE.** Title 27 of this Code.

(2) **INSURER.** The term shall have the meaning ascribed in Section 27-1-2 and shall include health maintenance organizations.

(3) **PERSON.** The term shall have the meaning ascribed in Section 27-1-2.

(4) **COMMISSIONER and DEPARTMENT.** The terms, respectively, shall have the meanings ascribed in Section 27-1-2.

(5) **INVESTMENT.** Any asset owned by an insurer.

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(6) **ELIGIBLE INVESTMENT.** Any investment permitted by Sections 27-41-7 to 27-41-35, inclusive, provided the investment meets all the other requirements of this chapter.

(7) **DOMESTIC INSURER, FOREIGN INSURER, and ALIEN INSURER.** The terms shall have the meanings ascribed in Section 27-1-2 and shall include health maintenance organizations.

(8) **ADMITTED ASSET.** Any asset of an insurer permitted by the Commissioner of Insurance to be taken into account in any determination of the financial condition of the insurer.

§27-41-3. Investments which may be counted as admitted assets generally; investments and obligations for investments deemed eligible investments under chapter generally; filing with commission of certified statements as to investments or obligations for investments not deemed eligible under chapter; assets or funds to which investment limitations based upon amounts of insurers assets or particular funds relate.

(a) Only eligible investments may be counted as admitted assets.

(b) Every investment lawfully held by a life, disability, or burial insurer on January 1, 1978, and every investment which the life, disability, or burial insurer became obligated to make prior to January 1, 1978, which was a lawful investment for the insurer at the time made or at the time the insurer became obligated to make it shall be an eligible investment. Any particular investment held by an insurer on May 17, 1993, or any amendment thereto, which was a legal investment at the time it was made, and which the insurer was legally entitled to possess immediately prior to the effective date, shall be deemed to be an eligible investment; however, any investment made after May 17, 1993, shall be in compliance with the limitations and qualifications of this section.

(c) All life, disability, or burial insurers shall within 90 days after January 1, 1978 file with the commissioner a written statement certified by its treasurer or chief investment officer, listing in the manner as to readily identify the same, all the investments or obligations for investments not otherwise eligible under this chapter, identifying each nonconforming investment and stating the terms and conditions of acquisition or proposed acquisition thereof.

(d) All insurers, other than life, disability, or burial insurers, shall within 90 days after May 17, 1993, file with the commissioner a written statement certified by its treasurer or chief investment officer, listing in the manner as to readily identify the same, all the investments or obligations for investments not otherwise eligible under this chapter, identifying each nonconforming investment and stating the terms and conditions of acquisition or proposed acquisition thereof.

(e) Eligibility of an investment shall be determined as of the date of its making or acquisition, except as stated in subsection (b) of this section.

(f) Any investment limitation based upon the amount of the insurer's assets or particular funds shall relate to the value of the assets or funds as shown by the insurer's annual statement as of December 31 next preceding the date of the

investment by the insurer or as shown by a current financial statement filed with and accepted as to content in writing by the commissioner.

§27-41-4. General requirements as to eligibility of investments.

No investment (other than in common stocks allowed under section 27-41-17, in insurance stocks allowed under section 27-41-18, in loans or investments allowed under section 27-41-35, in real property allowed under section 27-41-34, or in funeral supply inventories and equipment allowed under section 27-41-38) shall be an eligible investment unless it is interest-bearing or interest-accruing or dividend or income-paying, is not then in default and the insurer is entitled to receive for its account and benefit the interest or income accruing thereon.

An investment may be eligible notwithstanding that part of the interest or income accruing thereon is paid by the insurer to a third party in consideration of services rendered by the third party with respect to the investment or that part of the interest or income accruing thereon is shared by the insurer with one or more joint venturers or others participating in the same investment.

Any investment authorized may be deposited in a clearing corporation as defined in section 7-8-102(3), Code of Alabama, 1975, or in a federal reserve bank under book-entry system. When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other securities deposited in such clearing corporation by any person, regardless of the ownership of such securities, and securities of small denominations may be merged into one or more certificates of larger denominations. Title to such securities may be transferred by bookkeeping entry on the books of such clearing corporation or federal reserve bank without physical delivery or certificates representing such securities.

§27-41-5. Authorization of investments by board of directors, etc.

An insurer shall not make any investment or loan, other than loans on policies or annuity contracts, unless the same be authorized, approved or ratified by the board of directors of the insurer or by such committee or person as the board of directors shall expressly authorize. The action of the board of directors, the committee or other persons so authorized shall be recorded and regular reports thereof shall be submitted to the board of directors. This requisite shall not apply to funeral supplies authorized for mutual aid associations under section 27-41-38 which are purchased in the regular course of business under the general supervision of the association's board of directors.

§27-41-6. Limitations upon investments generally.

(a) An insurer shall not have at any one time any single investment or combination of investments in or loans upon the security of the obligations, property or securities of any one person aggregating in cost to the insurer in excess of the greater of 10 percent of such insurer's assets or the total of its capital and surplus, as shown in the latest annual report of the insurer filed pursuant to subsection (a) of section 27-3-26 of the Alabama insurance code, less the

minimum capital and surplus required of said insurer for authority to transact insurance by sections 27-3-7 and 27-3-8 of the Alabama insurance code.

The restriction of this subsection shall not apply to evidences of indebtedness issued, assumed or guaranteed by the United States of America or any department, agency or instrumentality thereof or by any state of the United States.

(b) An insurer shall at all times invest and maintain invested funds in cash and assets allowed in the following sections of this chapter in an amount not less than the capital required of it to transact insurance by section 27-3-7 of the Alabama insurance code:

- (1) Section 27-41-7 (United States government obligations).
- (2) Section 27-41-9 (state, county, municipal and school obligations).
- (3) Section 27-41-29 (mortgage loans).

(c) An insurer shall at all times invest and maintain invested funds in cash and the investments prescribed in this chapter in an amount not less than the amount of the reserves under its policies and annuity contracts in force.

(d) Limits as to investments shall apply as stated in specific sections relating to particular kinds of investments.

§27-41-7. Particular investments -- Bonds, notes, etc., of United States.

An insurer may invest in bonds, notes, warrants, debentures and other evidences of indebtedness which are direct obligations of the United States of America for which the full faith and credit of the United States of America is pledged for the payment of principal and interest.

§27-41-8. Same -- Loans guaranteed by United States.

An insurer may invest in loans guaranteed as to principal and interest by the United States of America or by any agency or instrumentality of the United States of America to the extent of such guaranty.

§27-41-9. Same -- Bonds, etc., of states or counties, municipalities, school districts, etc., therein generally.

An insurer may invest in bonds or other evidences of indebtedness which are general obligations of or are adequately secured as to both principal and interest by irrevocable pledge of specific revenues by this state or any other state of the United States or any county, incorporated city or town or duly organized school district or other civil division, governmental unit or public instrumentality of any such state. Obligations payable solely out of special assessments on properties benefited by local improvements shall not be eligible under this section.

§27-41-10. Same -- Bonds, etc., issued by states, counties, municipalities, etc., to provide funds for public projects, etc.

An insurer may invest in bonds and other evidences of indebtedness which are obligations of any state, county, city, town, village, municipality, district or other political subdivision of any state or of any instrumentality or board thereof or of the United States of America issued to provide funds for public projects, or for refunding of bonds issued for such purposes, which are revenue producing and self-supporting if such obligations are secured by a lien on such revenues to pay principal and interest and the issuing body is required to charge adequate rates for the services so provided to pay all charges against the project, including principal and interest on all indebtedness outstanding against the project.

§27-41-11. Same -- Bonds, etc., of local public housing authorities.

An insurer may invest in bonds, debentures or other evidences of indebtedness of local public housing authorities existing under the laws of the United States or of any state if such obligations are:

(1) Secured by a pledge of annual contributions unconditionally payable under the annual contributions contract between the department of housing and urban development and the local agencies issuing the bonds;

(2) Unconditionally guaranteed by the state, municipality or political subdivision creating the authority, if the tax supported obligations of such state, municipality or political subdivision so guaranteeing would be eligible for investment under this chapter; or

(3) Secured by payments to be made sufficient to pay principal and interest on the bonds under an "assistance contract" between the local authority and the state, municipality or other political subdivision creating the authority; provided, the tax supported obligations of the assisting state, municipality or political subdivision would be eligible for investment under this chapter.

§27-41-12. Same -- Obligations issued or guaranteed by certain federal agencies.

An insurer may invest in obligations issued or guaranteed by the following agencies of the United States of America:

- (1) Commodity Credit Corporation;
- (2) Federal intermediate credit banks;
- (3) Federal land banks;
- (4) Central bank for cooperatives;
- (5) Federal home loan banks;
- (6) Federal National Mortgage Association;
- (7) Federal Home Loan Mortgage Corporation;
- (8) Tennessee Valley Authority; and

(9) Any other similar agency of the government of the United States of America having similar financial quality.

§27-41-13. Same -- Bonds, etc., issued, etc., by Canadian government, provinces thereof, etc.

An insurer may invest in bonds or other evidences of indebtedness issued, assumed or guaranteed by Canada or any province thereof or issued by any municipality in Canada having a population of 25,000 or more.

§27-41-14. Same -- Obligations issued, etc., by international bank for reconstruction and development and National Mortgage Association.

(a) An insurer may invest in obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development.

(b) An insurer may invest in the obligations of the Federal National Mortgage Association.

(c) An insurer may invest in obligations issued, assumed or guaranteed by the African Development Bank.

§27-41-15. Same -- Obligations of American and Canadian institutions generally.

An insurer may invest in secured and unsecured obligations bearing interest at a fixed rate, with mandatory principal and interest being due at specified times, of any solvent institution engaged in any lawful business and existing under the laws of the United States or any state of the United States or Canada or any province thereof if the issuing institution has not defaulted in the payment of principal and interest on any of its fixed interest obligations during the five years preceding the date of investment; provided, that the obligations of an institution which has not been in existence for a period of five years shall be deemed eligible for investment under this section if the institution has not defaulted in the payment of principal and interest on any of its fixed obligations during the period of its existence and if such institution meets the other requisites of this chapter.

§27-41-16. Same -- Preferred or guaranteed stocks or shares of American corporations.

An insurer may invest in the preferred or guaranteed stocks or shares of any solvent corporation engaged in any lawful business and existing under the laws of the United States or any state thereof if the prior obligations of the issuing company or the guarantor, if any, would be eligible for investment under the provisions of section 27-41-15 and if the company has continuously paid the dividends provided for by outstanding preferred stock, if any, during the five years preceding the acquisition of the investment.

§27-41-17. Same -- Common stocks or shares and capital stocks of American and Canadian corporations.

(a) An insurer may invest in common stocks or shares of any solvent corporation engaged in any lawful business and existing under the laws of the United States or any state thereof or of Canada or any province thereof if the prior obligations of such corporation, if any, would be eligible for investment under the provisions of section 27-41-15.

(b) An insurer may invest in and own all or a controlling part of the capital stock of any corporation organized under the laws of the United States or any state thereof if the stock of such corporation is eligible for investment under subsection (a) of this section.

(c) The total amount of the insurer's investments under this section shall not at any time exceed the greater of 10 percent of assets of the insurer or the amount of the insurer's capital and surplus less the minimum capital and surplus required of said insurer to transact insurance by sections 27-3-7 and 27-3-8 of the Alabama insurance code. The limitations contained in this section shall not prevent an insurer from making eligible investments in common stock in excess of said limitations pursuant to the provisions of section 27-41-35.

§27-41-18. Same -- American insurance stocks.

An insurer may invest in the stocks of other solvent insurers formed under the laws of the United States or any state thereof, provided that the total amount of the insurer's investments in excess of the net asset value of the stock acquired shall not at any time exceed the greater of 10 percent of assets of the insurer or the insurer's capital and surplus less the minimum capital and surplus required of said insurer to transact insurance by sections 27-3-7 and 27-3-8 of the Alabama insurance code.

§27-41-19. Same -- Transportation equipment trust obligations; notes, etc., secured by leases, agreements, etc., relating to manufacturing, mining, etc., machinery, etc.

(a) An insurer may invest in equipment trust obligations or certificates which are adequately secured evidencing an interest in transportation equipment wholly or in part within the United States and a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such transportation equipment.

(b) An insurer may invest in notes, bonds, debentures or other evidences of indebtedness secured by an interest in manufacturing, mining or generating machinery and equipment located wholly within the United States evidencing a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such machinery and equipment.

(c) An insurer may invest in notes, bonds, debentures or evidences of indebtedness secured by a lease of manufacturing, mining, computer equipment or generating machinery and equipment or a lease of other tangible personal property or by a contract or by an agreement requiring aggregate payments sufficient to pay all fixed charges, including maintenance, upkeep and repair, insurance charges and taxes, and to pay the installments of principal and interest and any other payments required by the instrument evidencing the indebtedness.

(d) The lessee or party contracting or agreeing to make such payments under subsections (a), (b) or (c) of this section must be the United States or an agency thereof, a state of the United States or a civil division or governmental unit thereof or a solvent institution whose fixed interest obligations, if any, would be eligible investments under section 27-41-15.

§27-41-20. Same -- Leased line obligations of railroads; terminal obligations of railroads and other common carriers.

An insurer may invest in:

(1) Leased line obligations of railroads where all of the fixed interest-bearing obligations of the lessee meet the standards prescribed in section 27-41-15.

(2) Terminal obligations of railroads and other common carriers where all of the fixed interest-bearing obligations of the obligor meet the standards prescribed in section 27-41-15.

§27-41-21. Same -- Obligations of religious institutions or societies.

An insurer may invest in secured and unsecured obligations of religious institutions or societies located within the United States if the institution or society has not defaulted in payment of principal or interest on any of its obligations during the five years preceding the investment.

§27-41-22. Same -- Loans secured by liens on interests in oil, gas or condensate properties, etc.

An insurer may invest in adequately secured loans secured by first liens on interests in oil, gas or condensate properties or leaseholds in the United States and Canada on which there are fully completed commercially producing wells.

§27-41-23. Same -- Certificates, etc., issued by trustees or receivers of institutions being administered under court direction.

An insurer may invest in certificates, notes or other obligations issued by trustees or receivers of any institution created or existing under the laws of the United States or of any state thereof which, or the assets of which, are being administered under the direction of any court having jurisdiction if any such obligation is adequately secured as to principal and interest.

§27-41-24. Same -- Loans secured by pledges of securities or pledges or assignments of life insurance policies.

An insurer may invest in loans with a maturity not in excess of five years from the date thereof which are secured by pledge of securities eligible for investment under this chapter or by the pledge or assignment of life insurance policies issued by insurers authorized to transact insurance in this state. On the date made, no such loan shall exceed in amount 75 percent of the market value of the collateral pledged; except, that loans upon the pledge of United States government bonds and loans upon the pledge or assignment of life insurance policies shall not exceed 95 percent of the market value of the bonds or the cash

surrender value of the policies pledged. The amount so loaned shall be included in the maximum amount of funds permitted under this chapter to be invested in a single person.

§27-41-25. Same -- Policy loans.

A life insurer may lend to its policyholder upon the security of the policy any sum not exceeding the cash surrender value of the policy or may lend against pledge or assignment of any of its supplementary contracts or other contracts or obligations so long as the loan is adequately secured by such policy contracts.

§27-41-26. Same -- Shares or savings accounts of savings and loan associations.

An insurer may invest in shares or savings accounts of savings and loan associations insured by the federal savings and loan insurance corporation.

§27-41-27. Same -- Securities of foreign countries.

An insurer authorized to transact insurance in a foreign country may make investments, in an aggregate amount not exceeding its obligations incurred in such country, in securities of or in such country possessing characteristics similar to like investments required pursuant to this chapter for investments in the United States of America. Canadian securities eligible for investment under other provisions of this chapter are not subject to this section.

§27-41-28. Same -- Bonds, etc., guaranteed or insured by United States under federal law or secured by mortgages on ships, barges, etc.

An insurer may invest in bonds, debentures, notes or other evidences of indebtedness which are:

(1) Guaranteed by the United States of America, represented by the secretary of commerce acting pursuant to Title 11 of the Merchant Marine Act, 1936, as amended, and the Federal Ship Financing Act of 1972;

(2) Insured by the United States of America, represented by the secretary of commerce acting pursuant to Title 11 of the Merchant Marine Act, 1936, as amended, and the Federal Ship Mortgage Insurance Act, as amended; provided, that such indebtedness is secured by mortgages on ships, barges, tugboats or other shipping vessels; or

(3) Secured by mortgages on ships, barges, tugboats or other shipping vessels which are under lease or charter to the United States government or an agency or department of the United States government or to a solvent institution whose fixed interest obligations, if any, would be eligible investments under section 27-41-15, if such lease or charter is assigned as additional security for such bonds, debentures, notes or other evidences of indebtedness and requires aggregate payments sufficient to pay all fixed charges, including maintenance, upkeep and repair, insurance charges and taxes, and to pay the installments of principal and interest and any other payments required by the instrument evidencing the indebtedness.

§27-41-29. Same -- Bonds, etc., secured by mortgages or deeds of trust on real property, etc., generally.

An insurer may invest in:

(1) Bonds, notes or other evidences of indebtedness which are secured by a first mortgage lien or deed of trust upon unencumbered improved real property located in the United States or Canada, including leasehold estates in such real estate having an unexpired term (inclusive of the term or terms which may be provided by options of renewal) of not less than 10 years beyond the final maturity of the loan. Unless guaranteed or insured by the administrator of veterans affairs, the secretary of housing and urban development or by a mortgage guaranty insurance policy issued by an insurance company licensed and authorized to do business by and in the state of Alabama, no such mortgage loan or loans when made shall exceed 75 percent of the fair value of the real estate or leasehold, except that loans made on single family dwellings shall not exceed 80 percent of the fair value of the property. "Fair value" shall be determined by a competent appraiser or appraisers. For the purposes of this section and section 27-41-30, real estate shall not be deemed to be encumbered by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil or timber rights, rights-of-way, joint driveways, sewer rights, public utility easements, rights in walls, nor by reason of building restrictions or other restrictive covenants, nor when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner; provided, that the security created by the mortgage or trust deed on the real estate is a first lien upon such real estate and that there is no condition or right of re-entry or forfeiture under which such lien can be cut off, subordinated or otherwise disturbed.

(2) Bonds, notes or other evidences of indebtedness which are secured by mortgage or deed of trust on real estate or an interest in real estate in the United States, if payment of such indebtedness or part thereof is guaranteed or insured by the administrator of veterans affairs in accordance with the Servicemen's Readjustment Act of 1944, as amended. Any portion of a mortgage loan referred to in this subdivision which is not guaranteed as herein provided must not exceed 75 percent of the fair value of the property as defined in subdivision (1) above.

(3) Bonds, notes or other evidences of indebtedness which are secured by mortgage or deed of trust insured by the secretary of housing and urban development under the terms of the National Housing Act, as amended.

(4) Purchase money mortgages shall be valued as provided in section 27-37-9.

(5) Bonds, notes or other evidences of indebtedness which are secured by a first mortgage lien or deed of trust upon unencumbered improved or income bearing real property located in the United States or Canada, including leasehold estates in such real estate having an unexpired term of not less than 10 years beyond the final maturity of the loan where the borrower is a solvent corporation engaged in any lawful business and existing under the laws of the United States or any real estate of the United States or Canada, or any province thereof, if such corporation has not defaulted in the payment of principal and interest on any of its fixed interest obligations during five years preceding the date of investment and

the amount of indebtedness does not exceed 100 percent of the value of the property.

§27-41-30. Same -- Loans, notes, etc., secured by mortgages and leases on real property.

An insurer may invest in loans, notes, bonds or other evidences of indebtedness of any person up to the fair value of real property securing said indebtedness, upon compliance with the following conditions and provisions:

(1) The indebtedness must be secured by a first mortgage lien on real property having a fair value of not less than the principal amount of the loan, except as provided in subdivision (8) of this section;

(2) The indebtedness must be additionally secured by a lease on said real property, which lease must be assigned and transferred by the lessor to the lender or to a trustee of the lender under a trust instrument;

(3) The lease so assigned as additional security must be noncancellable and may be terminated only upon such conditions as are generally provided in commercial leases, such as, for example, destruction by fire, tornado or similar hazard or condemnation or taking by power of eminent domain;

(4) Rental payments under such lease must be payable monthly, quarterly or semi-annually and the aggregate rental payments required to be paid during the initial term of any such lease must be sufficient to pay the fixed charges against the leased property, including expenses of maintenance, upkeep and repair, insurance charges and taxes, and to pay the installments of principal and interest and any other payments required by the instrument evidencing the indebtedness;

(5) The lease additionally securing such indebtedness shall be a so-called "net lease," except as otherwise provided in subdivision (8) of this section. "Net lease" shall mean a lease under the terms of which the lessee is required to pay, in addition to the rental payments, all other charges for the maintenance, upkeep and repair of the leased property and all taxes, insurance and other charges provided under the terms of the lease;

(6) The indebtedness must be payable in full, both as to principal and interest, during the initial term of the lease assigned or transferred as additional security. The required payments of principal and interest on such indebtedness must be made in substantially equal periodic installments in an aggregate amount sufficient to retire or pay the loan in full upon or prior to the expiration of the initial term of such lease; except, that if the substantially equal periodic installments are at a rate sufficient to retire or pay the loan in full as amortized over the initial term of the lease, balloon payments may be permitted to pay the remaining balance due on the indebtedness if, by the terms of the instruments evidencing the same, the entire indebtedness matures prior to the expiration of the initial term of the lease. In addition to the required payments of principal and interest, the evidences of indebtedness may also provide for payment of additional moneys to the holder thereof based upon excess rentals, volume of sales or other events or factors which the parties may agree upon;

(7) The lessee, or any obligor under any such lease, must be a person, corporation or other legal entity or government agency, unit or subdivision whose obligations, at the time the lender commits in writing to make a loan, are or would be an eligible investment under this chapter and are or would be amortizable under the rules and regulations promulgated by the commissioner (ordinarily the same as promulgated by the National Association of Insurance Commissioners); and

(8) If the lease additionally securing such indebtedness is not a "net lease," then, and in such event, the indebtedness shall not exceed 90 percent of the fair value of the real property mortgaged to secure the payment of such indebtedness.

Where the words "lease," "lessor" or "lessee" appear in this section, the singular shall include the plural.

§27-41-31. Same -- Data processing and accounting systems.

An insurer may invest in electronic and mechanical machines constituting a data processing and accounting system if the cost of such system is not less than \$10,000.00 and cost for such machines is amortized in full over a period not to exceed ten calendar years.

§27-41-32. Same -- Investments relating to agricultural property securing evidences of indebtedness held by insurers and subject to mortgage foreclosure or insolvency proceedings.

(a) If real property securing any evidence of indebtedness held by an insurer is used for agricultural purposes and a proceeding to foreclose the mortgage or an insolvency proceeding relating to the mortgagor has been commenced or if the mortgagor has made an assignment for the benefit of creditors, the insurer may, for the purpose of preserving or enhancing the earnings of such property:

(1) Purchase agricultural livestock or equipment and utilize the same or cause the same to be utilized in the operation of the property by the mortgagor or by a receiver or trustee or by the insurer; or

(2) Lend up to the value of any agricultural equipment or livestock which may be utilized in the operation of the property on the security of such equipment and livestock as a first lien.

(b) Nothing in this section shall be deemed to limit any right which the insurer may otherwise have under or with respect to any such loan, mortgage or investment.

§27-41-33. Same -- Loans on personal property; chattel mortgages.

In connection with mortgage loans made under subdivisions (2) and (3) of section 27-41-29, an insurer may loan on the value of personal property items listed in the department of housing and urban development commitment for insurance or the veterans administration certificates of reasonable value. Nothing in this section shall be deemed to prevent an insurer from taking liens on personal

property items as additional security for any investment eligible for investment under this chapter.

Domestic life insurance companies are authorized to invest, within the limitations set forth in this section, in chattel mortgages resulting from the financing of tangible personal property, which mortgages must constitute valid first liens on the chattels mortgaged. The maximum amount of such mortgages to be admitted as assets shall not exceed one half of the amount of surplus remaining after deducting from capital and surplus an amount equal to the statutory minimum capital and surplus required of a newly organized life insurance company. In addition, an adequate reserve for losses, based on past and prospective experience of the company, shall be maintained at all times.

§27-41-34. Same -- Real estate.

(a)(1) An insurer may acquire, invest in, own, maintain, alter, furnish and improve the following real estate:

a. Land and buildings used for home office and branch office purposes, together with such other real estate as is required for the convenient transaction of its business; and

b. Funeral home buildings used in the servicing of burial insurance policies.

(2) An insurer may lease to others part of the real property otherwise occupied by it for home office and other purposes under paragraphs a. and b. of subdivision (1) of this subsection, except that the value of the parts so leased must be included in subdivision (2) of subsection (b) of this section.

(3) Except as provided in subsection (e) of this section, an insurer may not carry, as an admitted asset, real estate acquired under this subsection following 10 years from the date when such real estate ceases to be necessary for the convenient accommodation of the insurer in the transaction of its business.

(4) The cost of the aggregate amount of real estate owned under this subsection, less encumbrances and less depreciation where applicable, shall not exceed five percent of the insurer's admitted assets.

(b)(1) An insurer may acquire, invest in, own, maintain, alter, furnish and improve the following real estate:

a. Real estate acquired as payment or part payment in the sale of other real estate owned by the insurer;

b. Real estate acquired by a gift or devise;

c. Real estate necessary for the protection or enhancement of the value of other real estate owned by the insurer;

d. Real estate acquired through a lawful merger or consolidation with another insurance company and not required for its accommodation as provided in subsection (a) of this section; and

e. Real estate under lease or being constructed under a definite agreement providing for lease to a solvent person for industrial or commercial purposes. The fixed interest obligations, if any, of any such lessee under this paragraph must be eligible for investment under section 27-41-15.

(2) The cost of the aggregate amount of real estate owned under this subsection, less depreciation, where applicable, shall not exceed 10 percent of the insurer's admitted assets.

(c) An insurer may acquire, own, maintain, alter, furnish and improve real estate acquired in satisfaction of loans, mortgages, liens or other evidences of indebtedness previously owing to the insurer in the regular course of its business. Except as stated in subsection (e) of this section, an insurer may not carry as an admitted asset real estate acquired under this subsection following 10 years from the date of acquisition.

(d) An insurer may acquire, invest in, own, maintain, alter, furnish and improve real estate acquired to be improved or developed as an investment for the production of income. The cost of the aggregate amount of real estate owned under this subsection, including the cost of improvement and development, less depreciation, where applicable, shall not exceed 10 percent of the insurer's admitted assets.

(e) Upon evidence satisfactory to him that the interest of an insurer will suffer materially if it is not permitted to carry a particular parcel of real estate as an admitted asset after expiration of the period set out in subsections (a) and (c) of this section, the commissioner may, by order in writing, grant a reasonable extension of the period, as specified in said order, during which time the insurer may continue to carry such real estate as an admitted asset.

(f) Real estate permitted to be carried as an admitted asset of the insurer under this section shall be so carried at an amount equal to its cost at the time of acquisition together with the actual cost of improvements made thereon, less encumbrances and less depreciation where applicable.

(g) The limitations provided in this section with respect to real estate investments under this section shall not apply where the total amount invested by an insurer in such investments does not exceed the total capital and surplus of such insurer, less the minimum capital and surplus required to be maintained by such insurer under the provisions of sections 27-3-7 and 27-3-8 of the Alabama insurance code.

§27-41-34.1. Same -- Oil and gas producing properties and facilities.

(a) An insurer may invest in properties and facilities, and any interest and rights in such properties and facilities, for the development and production of fossil or synthetic fuel or other minerals, whether or not the extraction would deplete the surface of such properties, including, but not limited to, investments relating to:

(1) The exploration for and development and production of such fuel and minerals, and

(2) Ownership and control of such property, facilities, interest, and rights.

(b) An insurer shall not have at any one time any single investment or combination of investments permitted under subsection (a) of this section aggregating in cost to the insurer in excess of five percent of the amount by which the admitted assets of such insurer exceed \$50,000,000.00 (excluding in the computation of assets investments permitted under subsection (a) above).

§27-41-35. Miscellaneous investments.

(a) An insurer may make investments not otherwise expressly permitted by this chapter which may be counted as admitted assets, except as expressly prohibited under section 27-41-36, provided that:

(1) The aggregate of all such investments shall not exceed 10 percent of the insurer's admitted assets;

(2) The insurer's capital and surplus shall not be less than twice the total capital and surplus required of the insurer to transact insurance under sections 27-3-7 and 27-3-8 of the Alabama insurance code; and

(3) Such investments are sound investments.

(b) No investment shall be an eligible investment under this section if the investment is in an asset not allowed under the provisions of section 27-37-2 of the Alabama insurance code or is otherwise expressly prohibited or is eligible under any other provision of this chapter; except, that an insurer may invest in common stocks up to the limits imposed by this section in excess of the limits imposed by section 27-41-17.

(c) The insurer shall keep a separate record of all investments made under this section.

(d) If an investment made under this section subsequently qualifies as an eligible investment under any other provision of this chapter, the investment shall thereafter not be eligible under this section.

§27-41-36. Prohibited investments; underwriting, etc., of offerings of securities or property.

(a) After January 1, 1978, an insurer shall not invest in nor lend its funds upon the security of any note or other evidence of indebtedness of any director, officer or controlling stockholder of the insurer, except as to policy loans authorized under section 27-41-25 and except as provided in sections 27-1-2, 27-27-26 and 27-37-2 of the Alabama insurance code.

(b) No insurer shall underwrite or participate in the underwriting of an offering of securities or property by any other person; provided, that nothing in this subsection shall prevent an insurer from purchasing securities or property directly from any person so long as the purchase is made for investment purposes and not for the purpose of resale through public distribution.

§27-41-37. Investments of mutual aid associations – Generally.

(a) The funds of a mutual aid association shall be in cash or shall be invested as provided in sections 27-41-3 through 27-41-36 and section 27-41-38 as applicable to life insurers, except that:

(1) Funds of the association to the extent of its reserve liabilities resulting from valuation of its contracts providing for benefits, aid or services payable or to be rendered other than in cash may, at the option of the association, be invested in securities or assets eligible for investment of the funds of life insurers in general, but with category limits as follows in lieu of limits otherwise applicable thereto under sections 27-41-3 through 27-41-36:

a. Not to exceed 25 percent of the reserves of the association in the aggregate may be invested in preferred and guaranteed stocks authorized in section 27-41-16 and common stocks authorized under section 27-41-17;

b. Not to exceed 10 percent of such reserves may be invested in insurance stock authorized under section 27-41-18; and

c. Not to exceed 40 percent of such reserves may be invested in real estate for production of income authorized under section 27-41-34.

(2) In addition to the investment of particular reserves in designated categories of investments as provided in subdivision (1) of this subsection, the association may invest additional funds in the same categories, but within the percentage limitations otherwise applicable under sections 27-41-3 through 27-41-36 as computed upon all of the assets of the association after deduction of the reserves mentioned in subdivision (1) of this subsection.

(b) This section shall not apply to mutual aid corporations that received a certificate of authority prior to July 31, 1967. The moneys derived by such corporations from the payment of subscriptions to its capital stock, and the payment of sales of stock (contributed surplus for mutual) may be invested in bonds of the United States or of this state or of the cities or counties of this state, estimated at their market value, or in notes or mortgages secured by real estate collateral worth twice the amount of said mortgages or notes.

(c) Mutual aid corporations, both stock and mutual, organized prior to July 31, 1967, shall be solvent so long as their assets exceed their liabilities.

§27-41-38. Same -- Funeral supply inventories and funeral equipment.

In addition to other investments permitted under this chapter, mutual aid associations may invest in funeral supply inventories, consisting of caskets, suits, robes, dresses and embalming supplies, and funeral equipment, consisting of automobiles, hearses, ambulances, funeral cars and other motor vehicle equipment, to the extent reasonably necessary to the full performance by the association of its outstanding contracts and policies. Such funeral supply inventories shall not exceed 25 percent of the association's assets.

§27-41-39. Investments of foreign and alien insurers.

The investments of a foreign or alien insurer shall be as permitted by the

laws of its domicile but shall be of a quality and diversity substantially equivalent to that required of like domestic insurers under this chapter.

§27-41-40. Effect of failure to dispose of real estate, personal property, securities, etc., within prescribed period of time.

Any real estate, personal property, securities or other investment lawfully acquired and held by an insurer shall not be allowed as an admitted asset of the insurer after expiration of the period for disposal thereof or any extension of such period granted by the commissioner pursuant to the provisions of section 27-41-34.

§27-41-41. Only eligible investments to be counted as admitted assets; treatment of investments partially qualifying as eligible investments.

Except as expressly prohibited in section 27-41-36, an insurer may make any investment without limit as to kind, time or amount, but only eligible investments shall be included or counted as admitted assets of the insurer in the determination of its financial condition.

If part of an investment qualifies as an eligible investment under any provision of this act and part does not, then only the part of the investment so qualifying shall be counted as an admitted asset.

§27-42-1. Short title.

This chapter shall be known and may be cited as the "Alabama Insurance Guaranty Association Act."

§27-42-2. Purpose of chapter.

The purpose of this chapter is to provide a mechanism for the payment of covered claims under certain insurance policies, to avoid excessive delay in payments and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies and to provide an association to assess the cost of such protection among insurers.

§27-42-3. Applicability of chapter.

This chapter shall apply to all kinds of direct insurance, except life, annuities, disability, accident and health, title, surety, credit, mortgage guaranty and ocean marine insurance.

§27-42-4. Construction of chapter.

This chapter shall be liberally construed to effect the purpose under section 27-42-2 which will constitute an aid and guide to interpretation.

§27-42-5. Definitions.

As used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) ACCOUNT. Any one of the three accounts created by section 27-42-6.

(2) ASSOCIATION. The Alabama Insurance Guaranty Association created under 27-42-6.

(3) COMMISSIONER. The commissioner of insurance of the state of Alabama.

(4) COVERED CLAIM. An unpaid claim, including one of unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this chapter applies issued by an insurer, if such insurer becomes an insolvent insurer after January 1, 1981 and (i) the claimant or insured is a resident of this state at the time of the insured event; or (ii) the property from which the claim arises is permanently located in this state. "Covered claim" shall not include any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise.

(5) INSOLVENT INSURER. An insurer licensed to transact insurance in this state, either at the time the policy was issued or when the insured event occurred, and against whom an order of liquidation with a finding of insolvency has been entered after January 1, 1981 by a court of competent jurisdiction in the insurer's state of domicile or of this state under the provision(s) of chapter 32 of Title 27, which order of liquidation has not been stayed or been the subject of a writ of supersedeas bonds or other comparable order.

(6) MEMBER INSURER. Any person who (i) writes any kind of insurance to which this chapter applies under section 27-42-3, including the exchange of reciprocal or interinsurance contracts, and (ii) is licensed to transact insurance in this state.

(7) NET DIRECT WRITTEN PREMIUMS. Direct gross premiums written in this state on insurance policies to which this chapter applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

(8) PERSON. Any individual, corporation, partnership, association or voluntary organization.

§27-42-6. Association created; member insurers; accounts.

There is created a nonprofit unincorporated legal entity to be known as the Alabama Insurance Guaranty Association. All insurers defined as member insurers in subdivision (6) of section 27-42-5 shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under a plan of operation established and approved under section 27-42-9 and shall exercise its powers through a board of directors established under section 27-42-7. For purposes of administration and assessment, the association shall be divided into three separate accounts: (a) the workmen's compensation insurance account; (b) the automobile insurance account; and (c) the account for all other insurance to which this chapter applies.

§27-42-7. Board of directors; selection; vacancies; expenses.

(a) The board of directors of the association shall consist of not less than five nor more than nine persons serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members subject to the approval of the commissioner. If no members are selected within 60 days after January 1, 1981, the commissioner may appoint the initial members of the board of directors.

(b) In approving the selections to the board, the commissioner shall consider among other things whether all member insurers are fairly represented.

(c) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors.

§27-42-8. Powers and duties of the association.

(a) The association shall:

(1) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within 30 days after the determination of insolvency, or before the policy expiration date if less than 30 days after the determination, on or before the insured replaces the policy or causes its cancellation, if he does so within 30 days of the determination, but such obligation shall include only that amount of each covered claim which is in excess of \$100.00 and is less than \$150,000.00, except that the association shall pay the full amount of any covered employee benefit claim arising under Section A of workmen's compensation policy. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises. Notwithstanding any other provisions of this chapter, a covered claim shall not include any claim filed with the guaranty fund after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

(2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent.

(3) Allocate claims paid and expenses incurred among the three accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of the association under subdivision (1) of this subsection subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under section 27-42-13 and other expenses authorized by this chapter. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment on the kinds of insurance in the account. Each member insurer shall be notified of the assessment not later than 30 days before it is due. No member insurer may be assessed in any one

year on any account an amount greater than one percent of that member insurer's net direct written premiums for the calendar year preceding the assessment on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order which it may deem reasonable, including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; provided, however, that during the period of deferment, no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital or surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment or, at the election of any such company, credited against future assessments. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer if they are chargeable to the account for which the assessment is made.

(4) Investigate claims brought against the association and adjust, compromise, settle and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested.

(5) Notify such persons as the commissioner directs under subdivision (1) of subsection (b) of section 27-42-10.

(6) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

(7) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this chapter.

(b) The association may:

(1) Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

(2) Borrow funds necessary to effect the purposes of this chapter in accord with the plan of operation.

(3) Sue or be sued.

(4) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this chapter.

(5) Perform such other acts as are necessary or proper to effectuate the purpose of this chapter.

(6) Refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the liabilities if, at the end of any calendar year, the board of directors finds that the assets of the association in any account exceed the liabilities of that account as estimated by the board of directors for the coming year.

§27-42-9. Plan of operation.

(a) The association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commissioner.

If the association fails to submit a suitable plan of operation within 90 days following January 1, 1981 or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this chapter. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(b) All member insurers shall comply with the plan of operation.

(c) The plan of operation shall:

(1) Establish procedures whereby all the powers and duties of the association under section 27-42-8 will be performed.

(2) Establish procedures for handling assets of the association.

(3) Establish the amount and method of reimbursing members of the board of directors under section 27-42-7.

(4) Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the association or its agent and a list of such claims shall be periodically submitted to the association or similar organization in another state by the receiver or liquidator.

(5) Establish regular places and times for meetings of the board of directors.

(6) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors.

(7) Provide that any member insurer aggrieved by any final action or decision of the association may appeal to the commissioner within 30 days after the action or decision.

(8) Establish the procedures whereby selections for the board of directors will be submitted to the commissioner.

(9) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(d) The plan of operation may provide that any or all powers and the duties of the association, except those under subdivision (3) of subsection (a) and subdivision (2) of subsection (b) of section 27-42-8 are delegated to a corporation, association or other organization which performs or will perform functions similar to those of this association, or its equivalent in two or more states. Such a corporation, association or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other functions of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner and may be made only to a corporation, association or organization which extends protection not substantially less favorable and effective than that provided by this chapter.

§27-42-10. Duties and powers of the commissioner; judicial review.

(a) The commissioner shall:

(1) Notify the association of the existence of an insolvent insurer not later than three days after he receives notice of determination of the insolvency. The association shall be entitled to a copy of any complaint seeking an order of liquidation with a finding of insolvency against a member company at the time that such complaint is filed with a court of competent jurisdiction.

(2) Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.

(b) The commissioner may:

(1) Require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this chapter. Such notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

(2) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. Such fine shall not exceed five percent of the unpaid assessment per month, except that no fine shall be less than \$100.00 per month.

(3) Revoke the designation of any servicing facility if he finds claims are being handled unsatisfactorily.

(c) Any final action or order of the commissioner under this chapter shall be subject to judicial review in a court of competent jurisdiction.

§27-42-11. Effect of paid claims; filing of paid claims and estimates with receiver or liquidator.

(a) Any person recovering under this chapter shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this chapter shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments.

(b) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

(c) The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.

§27-42-12. Exhaustion of rights; nonduplication of recovery.

(a) Any person having a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer which is also a covered claim, shall be required to exhaust first his rights under such policy. Any amount payable on a covered claim under this chapter shall be reduced by the amount of any recovery under such insurance policy.

(b) Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, he shall seek recovery first from the association of the location of the property and if it is a workmen's compensation claim, he shall seek recovery first from the association of the residence of the claimant. Any recovery under this chapter shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

§27-42-13. Prevention of insolvencies; examinations of insurers; reports.

(a) To aid in the detection and prevention of insurer insolvencies, it shall be the duty of the board of directors, upon majority vote, to notify the commissioner of any information indicating any member insurer may be insolvent or in a financial condition hazardous to the policyholders or the public.

(b) The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be in a financial condition hazardous to the policyholders or the public. Within 30 days of the receipt of such request, the commissioner shall begin such examination. The examination may be conducted as a national association of insurance commissioners examination or may be conducted by such persons as the commissioner designates. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event, shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subsection (c) of this section. The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner, but it shall not be open to public inspection prior to the release of the examination report to the public.

(c) It shall be the duty of the commissioner to report to the board of directors when he has reasonable cause to believe that any member insurer examined or being examined at the request of the board of directors may be insolvent or in a financial condition hazardous to the policyholders or the public.

(d) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer. Such reports and recommendations shall not be considered public documents.

(e) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(f) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the information available to the association and submit such report to the commissioner.

§27-42-14. Examination of the association; financial report.

The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

§27-42-15. Tax exemption.

The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions except taxes levied on real or personal property.

§27-42-16. Credits for assessments paid; disposition of refunds previously offset.

(a) A member insurer may offset against its premium tax liability to this state an assessment described in subdivision (3) of subsection (a) of section 27-42-8 to the extent of 20 percent of the amount of such assessment for each of the five calendar years following the year in which such assessment was paid. In the event a member insurer should cease doing business, all uncredited assessments may be credited against its premium tax liability for the year it ceases doing business.

(b) Any sums acquired by refund, pursuant to subdivision (7) of subsection (a) of section 27-42-8, from the association which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (a) of this section, and are not then needed for purposes of this chapter, shall be paid by the association to the commissioner and by him deposited with the state treasurer for credit to the general fund of this state.

§27-42-17. Immunity.

There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer, the association or its agents or employees, the board of directors or the commissioner or his representatives for any action taken by them in the performance of their powers and duties under this chapter.

§27-42-18. Stay of proceedings; access of board to records of insurers.

All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in this state shall be stayed for up to six months and such additional time thereafter as may be determined by the court from the date the insolvency is determined or an ancillary proceeding is instituted in the state, whichever is later, to permit proper defense by the association of all pending causes of action as to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, the association either on its own behalf or on behalf of such insured may apply to have such judgment, order or administrator that made such judgment, order, decision, verdict or finding and shall be permitted to defend such claim on the merits.

The liquidator, receiver or statutory successor of an insolvent insurer covered by this chapter shall permit access by the board or its authorized representative to such of the insolvent insurer's records which are necessary for the board in carrying out its functions under this chapter with regard to covered claims. In addition, the liquidator, receiver or statutory successor shall provide the board or its representative with copies of such records upon the request by the board and at the expense of the board.

§27-42-19. Association, policyholders, beneficiaries and insureds to have preferred creditor status.

Upon the issuance of a proper court order placing a domestic insurer in receivership or placing a foreign insurer in ancillary receivership for rehabilitation or liquidation, all policyholders, beneficiaries and insureds of such insolvent

insurer, with respect to claims arising from and within the coverages of and not in excess of the applicable limits of insurance policies and contracts issued by the insolvent insurer, and liability claims against insureds which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the insolvent insurer, and the Alabama Insurance Guaranty Association and any similar organization in another state shall be preferred creditors of said insolvent insurer.

§27-42-20. Access to assets of Insolvent Insurer; application for court approval of plan to disburse assets; notice of application.

(a) Within 120 days of a final determination of insolvency of an insurance company by a court of competent jurisdiction the receiver shall make application to the said court for approval of a proposal to disburse assets out of such company's marshalled assets, from time to time as such assets become available, to the Alabama Insurance Guaranty Association and to any entity or person performing a similar function in another state. (The Alabama Insurance Guaranty Association and any entity or person performing a similar function in other states shall hereinafter be referred to collectively as the associations.)

(b) Such proposal shall at least include provisions for:

(1) Reserving amounts for the payment of expenses of administration and claims falling within the priorities established in the Alabama Uniform Insurers Liquidation Act but only with respect to such priorities higher than that of the associations;

(2) Disbursement of the assets marshalled to date and subsequent disbursement of assets as they become available;

(3) Equitable allocation of disbursements to each of the associations entitled thereto;

(4) The securing by the receiver from each of the associations entitled to disbursements pursuant to this section of an agreement to return to the receiver such assets previously disbursed as may be required to pay claims of secured creditors and claims with a higher priority than those of the associations. No bond shall be required of any such association.

(c) The receiver's proposal shall provide for disbursements to the associations in amounts at least equal to the payments made or to be made thereby for which such associations could assert claims against the receiver, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of such payments made or to be made by the associations then disbursements shall be in the amount of available assets.

(d) Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, at least 30 days prior to submission of such application to the said court. Action on the application may be taken by the said court provided the above required notice has been given and provided further that the

receiver's proposal complies with subdivisions (1) and (4) of subsection (b) of this section.

§27-43-1. Short title.

This chapter shall be known and may be cited as the "Legal Expense Insurance Act".

§27-43-2. Purpose of chapter.

The purpose of this chapter is to authorize state certification and regulation of organizations which provide programs for the payment of the costs of legal services.

§27-43-3. Definitions.

As used in this chapter, the following terms shall have the following meanings, respectively, unless the context requires otherwise:

(1) **DEPARTMENT.** The department of insurance;

(2) **COMMISSIONER.** The commissioner of insurance of this state;

(3) **INSURER.** Any person authorized to do a casualty insurance business or life, accident and sickness insurance business as an insurer in this state and organizations authorized to transact legal expense insurance under section 27-43-8;

(4) **LEGAL EXPENSE INSURANCE.** Such term means, irrespective of the definition of insurance in other chapters under this title, the assumption of a contractual obligation to pay for specific legal services or to reimburse for specific legal expenses, in consideration of a specified payment in advance for an interval of time, regardless of whether the payment is made by the beneficiaries individually or by a third person for them, but does not include the provision of or reimbursement for legal services incidental to other insurance coverages.

§27-43-4. Applicability of chapter.

The insurance laws of this state, including this chapter, do not apply to:

(1) Retainer contracts made by attorneys-at-law with individual clients with fees based on estimates of the nature and amount of services to be provided to the specific client and similar contracts made with a group of clients involved in the same or closely related legal matters;

(2) Any lawyer referral services authorized by the state bar of Alabama;

(3) The furnishing of legal assistance by labor unions and other employee organizations to their members in matters relating to employment or occupations;

(4) The furnishing of legal assistance to members and/or dependents by churches, cooperatives, educational institutions, credit unions, labor unions or

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other organizations of employees, where such organizations contract with and pay directly a lawyer or law firm(s) for the provision of legal services, where the assistance is provided as an incident to membership and not on the basis of an optional fee or charge and the administration of such program of legal assistance is wholly conducted by the organization; and

(5) Employee welfare benefit plans to the extent that state laws are superseded by section 514 of the Employee Retirement Income Security Act of 1974, provided evidence of exemption from state laws is shown to the department.

§27-43-5. Authorization of prepaid legal expense insurance business required.

(a) No person or organization may do a prepaid legal expense insurance business in this state unless authorized to do so by the commissioner.

(b) This section does not apply to organizations exempt pursuant to section 27-43-4, Code of Alabama, 1975.

§27-43-6. Insurers deemed eligible to transact legal expense insurance.

(a) Any domestic, foreign or alien insurer authorized to transact casualty insurance or life, accident and sickness insurance in this state may transact legal expense insurance in this state.

(b) Legal service insurance corporations possessing a valid certificate of authority may transact legal expense insurance in this state.

§27-43-7. Procedure for incorporation of legal services insurance corporation generally.

(a) Any number of corporate or adult natural persons may organize a legal service insurance corporation under this section.

(b) The articles of incorporation shall conform to the requirements applicable to corporations, except that:

(1) The name of the corporation shall indicate that payment for legal services or indemnity for legal expenses is to be provided; and

(2) The purposes of the corporation shall be limited to payment for legal services or indemnity for legal expenses and business expenses reasonably related thereto.

§27-43-8. Filing of application for certificate of authority; contents of application; issuance of certificate.

(a) The incorporators shall file with the commissioner an application for a certificate of authority to do business upon a form to be furnished by the department, which shall include or have attached the following:

(1) The names and, for the preceding 10 years, all addresses and all occupations of all incorporators and proposed directors and officers;

(2) A certified copy of the corporate articles and bylaws and a list of the names, addresses and occupations of all directors and principal officers and, if previously incorporated, for the three most recent years, the corporation annual statements and reports;

(3) All agreements relating to the corporation to which any incorporator or proposed director or officer is a party;

(4) A statement of the amount and sources of the funds available for organization expenses and the proposed arrangements for reimbursement and compensation of incorporators or other persons;

(5) A statement of compensation of directors and officers;

(6) The forms to be used for any proposed contracts between the corporation and providers of legal services and any corporations which perform administrative, marketing or management services, concerning the provision of services to insureds;

(7) The plan for conducting the insurance business, including all of the following:

a. The geographical area in which business is intended to be done in the first five years;

b. The types of insurance intended to be written in the first five years, including specification whether and to what extent indemnity rather than service benefits are to be provided;

c. The proposed marketing methods;

d. Actuarial data or other similar statistical data, documented and verified in such manner as the department may reasonably require, affirmatively demonstrating the anticipated income and expenses in the first five years, including, without limitation, the projected expenditure for legal services and projected source of funds to make up any anticipated deficits.

(8) A current statement of the assets and liabilities of the applicant;

(9) Forms of all prepaid legal service contracts the applicant proposes to offer showing the rates to be charged for each form of contract; and

(10) Such other documents or information as the department may reasonably require;

(b) Copies of the documents filed pursuant to subdivisions (6) and (9) of subsection (a) of this section shall be filed with the state bar of Alabama within five days of filing with the commissioner;

(c) The commissioner shall issue a certificate of authority if he is satisfied that:

(1) All requirements of law have been met;

(2) All natural persons who are incorporators, the directors and principal officers of corporate incorporators and the proposed directors and officers of the corporation being formed are trustworthy and competent and collectively have the competence and experience to engage in the particular insurance business proposed; and

(3) The business plan is consistent with the interests of the corporation's potential insureds and of the public.

§27-43-9. Bond or deposit requirements.

(a) To assure the faithful performance of its obligations in the event of insolvency, each corporation authorized under section 27-43-8 shall, through the commissioner, deposit and maintain with the treasurer of the state securities of the type eligible for deposit by insurers under section 27-6-3, which securities shall have at all times a market value as follows:

(1) An insurer which has transacted no legal expense insurance in this state prior to January 1, 1982, shall, prior to the issuance of its certificate of authority and before receiving any premiums, place in trust with the treasurer of the state, through the commissioner an initial amount of \$50,000.00;

(2) An insurer transacting a legal expense insurance business in this state prior to January 1, 1982 and having in force in this state less than \$300,000.00 of gross written premiums, membership fees or similar charges shall place in trust with the treasurer of the state, through the commissioner, a sum equal to 50 percent of the gross premiums in force or \$50,000.00, whichever is less;

(3) An insurer transacting a legal expense insurance business in this state prior to January 1, 1982 and having in force in this state more than \$300,000.00 but less than \$750,000.00 of gross written premiums, membership fees or similar charges in this state shall place in trust with the treasurer of the state, through the commissioner, an amount not less than \$75,000.00; and

(4) An insurer transacting a legal expense insurance business in this state prior to January 1, 1982 and having in force in this state \$750,000.00 or more of gross written premiums, membership fees or similar charges in this state shall place in trust with the treasurer of the state, through the commissioner, an amount equal to \$100,000.00.

(b) In lieu of any deposit of securities required under subsection (a) of this section and subject to the commissioner's approval, a legal service insurance corporation may file with the treasurer of the state a surety bond issued by a surety insurer authorized to serve as surety under the provisions of chapter 24 of this title. The bond shall be for the same purpose as the deposit in lieu of which it is filed. The department shall not approve any bond under the terms of which the protection afforded against insolvency is not equivalent to the protection afforded by those securities provided for in subsection (a) of this section.

(c) Securities or bonds posted pursuant to this section shall be for the benefit of and subject to action thereon in the event of insolvency or impairment of any legal service insurance corporation by any person or persons sustaining an

actionable injury due to the failure of the corporation to faithfully perform its obligations to its insureds.

(d) The state shall be responsible for the safekeeping of all securities deposited with the treasurer of the state under this chapter. Such securities shall not, on account of being in this state, be subject to taxation, but shall be held exclusively and solely to guarantee the legal service insurance corporation's performance of its obligations to its insureds.

(e) Such deposit or bond shall be maintained unimpaired as long as the legal service insurance corporation continues in business in this state. Whenever the corporation ceases to do business in this state and furnishes the commissioner proof satisfactory to the commissioner that it has discharged or otherwise adequately provided for all its obligations to its insureds in this state, the treasurer of the state shall release the deposited securities to the parties entitled thereto, on presentation of the treasurer's receipts for such securities, or shall release any bond filed with it in lieu of such deposit.

(f) The commissioner may at any time enter an order increasing the amount of the deposit or bond specified under subsections (a) and (b) of this section if he finds that there has been a substantial change in the facts, including an increase in the amounts of premiums, membership fees or similar charges in force in this state on which the original determination was based. The commissioner shall hold a hearing within 30 days after receiving a request from the corporation submitted within 30 days after being notified of the modification order. Failure to meet the new requirements within 30 days after final decision or after the expiration of the 30-day period for submitting the hearing request constitutes a ground for rehabilitation.

§27-43-10. Types of legal expense insurance; policy and certificate forms; issuance of policies and certificates.

(a) Legal expense insurance may be written as individual, group, blanket or franchise insurance. Each contractual obligation for legal expense insurance must be evidenced by a policy. Each person insured under a group policy must be issued a certificate of coverage.

(b) No policy or certificate of legal expense insurance may be issued in this state unless a copy of the form has been filed and approved by the commissioner.

(c) The commissioner may not approve any form that does not meet the following requirements:

(1) Policies must contain a list and description of the legal service payments promised or the legal matters for which expenses are to be reimbursed and any limits on the amounts to be paid or reimbursed;

(2) Policies and certificates must indicate the name of the insurer and the full address of its principal place of business;

(3) Certificates issued under group policies must contain a full statement of the benefits provided and exceptions thereto, but may summarize the other terms of the master policy;

(4) Policies promising payment for legal services to be provided by a limited number of attorneys who have concluded provider contracts with the insurer, whether the attorney in an individual case is to be selected by the insured or by the insurer, must provide for alternative benefits in the case where the insured is unable to find a participating attorney willing to perform the promised services or the attorney selected by the insurer is disqualified or otherwise unable to perform the promised services. The alternative benefit may consist of furnishing the services of an attorney selected and paid by the insurer or paying the fee of an attorney selected by the insured. The policy must also provide a procedure that includes impartial review for settling disagreements about the grounds for demanding an alternative benefit;

(5) No policy except one issued by a mutual or reciprocal insurance company may provide for assessments on policyholders or for reduction of benefits for the purpose of maintaining the insurer's solvency;

(6) Policies must contain a statement that the subscriber has a right to complain to the state bar of Alabama about attorney conduct pursuant to the plan; and

(7) Policies must contain a statement that the individual beneficiary has the right to retain, at his own expense, except where the policy provides otherwise, any attorney authorized to practice law in the state;

(d) The department may disapprove a policy or certificate form if it finds that it:

(1) Is unfair, unfairly discriminatory, misleading, ambiguous or encourages misrepresentation or misunderstanding of the contract;

(2) Provides coverage or benefits or contains other provisions that would endanger the solvency of the insurer; or

(3) Is contrary to law.

§27-43-11. Premium rates.

(a) No policy of legal expense insurance may be issued in this state unless the premium rates for the insurance have been filed with and approved by the commissioner.

(b) Premium rates must be established and justified in accordance with generally accepted insurance principles, including, but not limited to, the experience or judgment of the insurer making the rate filing or actuarial computations.

(c) The commissioner may disapprove rates that are excessive, inadequate or unfairly discriminatory. Rates are not unfairly discriminatory because they are averaged broadly among persons insured under group, blanket or franchise policies.

(d) The commissioner may require the submission of whatever relevant information is deemed necessary in determining whether to approve or disapprove a filing made under this section or section 27-43-10, Code of Alabama, 1975.

§27-43-12. Filing, approval, etc., of contracts between insurers and attorneys, etc.

(a) Contracts made between the insurer and participating attorneys, management contracts and contracts with other providers of services by the legal expense insurance policy must be filed with and approved by the commissioner.

(b) Insurers must annually report to the commissioner, in such detail as is reasonably required, the number and geographical distribution of attorneys and other providers of services covered by the legal expense insurance policy with whom it maintains contractual relations and the nature of the relations. For individual insurers or groups of insurers, the commissioner may require more frequent reports.

§27-43-13. Fees and taxes required of legal service insurance corporations; applicability of general insurance laws to legal service insurance corporations.

(a) A legal service insurance corporation will pay the prescribed fees and taxes required of a domestic casualty insurer.

(b) The following provisions of the insurance laws of this state apply to legal service insurance corporations authorized under section 27-43-8, Code of Alabama, 1975, to the extent that they are not inconsistent with the provisions of this chapter:

(1) Chapters 27-1 and 27-2, Code of Alabama, 1975 -- Administration and General Provisions;

(2) Chapter 27-4, Code of Alabama, 1975 -- Fees and Taxes;

(3) Chapter 27-6, Code of Alabama, 1975 -- Administration of Deposits;

(4) Chapter 27-11 [27-12], Code of Alabama, 1975 -- Unfair Trade Practices; and

(5) Chapter 27-32, Code of Alabama, 1975 -- Insurer Insolvency; Rehabilitation and Liquidation.

(c) The commissioner may by rule modify or waive any requirements referred to in subsection (b) of this section for legal service insurers if it is necessary to avoid unreasonable hardship, expense or inconvenience and if the interests of policyholders continue to be adequately protected.

§27-43-14. Registration requirements -- Generally.

No person shall solicit, negotiate, advertise or effectuate legal expense insurance contracts in this state unless such person is registered as a contracting sales agent or is utilized by a contracting sales agent.

§27-43-15. Same -- Sales agents.

Every legal service insurance corporation shall, on forms prescribed by the commissioner, register, on or before October 1 of each year, the name and business address of each contracting sales agent utilized by it in Alabama and shall, within 30 days after termination of the contract, notify the commissioner of such termination. At the time of said annual registration, a \$10.00 filing fee for each contracting sales agent shall be paid by the legal service insurance corporation to the commissioner. Any contracting sales agent utilized subsequent to the October 1 filing date shall be registered with the department within 10 days after such utilization. Such contracting sales agents shall be subject to the same regulations and controls as provided for casualty insurance representatives in chapter 7 of this title or the same regulations and controls as provided for life and/or accident and sickness insurance companies.

§27-43-16. Grounds for compulsory refusal, suspension, revocation, etc., of registration of contracting sales agents.

The commissioner shall deny, suspend, revoke or refuse to renew or continue the registration of any contracting sales agent if it is found that as to the agent, any one or more of the following applicable grounds exist:

- (1) Material misstatement, misrepresentation or fraud in registration;
- (2) The registration is willfully used or is to be used to circumvent any of the requirements or prohibitions of this chapter;
- (3) Willful misrepresentation of any legal service expense contract or willful deception with regard to any such contract, done either in person or by any form of dissemination of information or advertising;
- (4) In the adjustment of claims he has materially misrepresented to a contract holder or other interested party the terms and coverage of a contract, with the intent and for the purpose of effecting settlement of such claim on less favorable terms than those provided in and contemplated by the contract;
- (5) For demonstrated lack of fitness or trustworthiness to engage in the business of legal service insurance;
- (6) For demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the registration;
- (7) Fraudulent or dishonest practices in the conduct of business under the registration;
- (8) Misappropriation, conversion or unlawful withholding of moneys belonging to a legal service corporation, or to others, and received in the conduct of business under the registration;
- (9) For rebating, or attempting to rebate, or for unlawfully dividing, or offering to divide his commission with another; and

(10) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of this chapter.

§27-43-17. Grounds for discretionary refusal, suspension, revocation, etc., of registration of contracting sales agents.

The commissioner may, in his discretion, deny, suspend, revoke or refuse to renew or continue the registration of any contracting sales agent if it is found, after notice and hearing thereon as provided in section 27-43-18, that, as to the agent, any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation or refusal is not mandatory under section 27-43-16:

(1) Any cause for which granting of the registration could have been refused had it then existed and been known to the department;

(2) Violation of any provision of this chapter, or of any other law applicable to the business of legal service insurance, in the course of dealings under the registration;

(3) Violation of any lawful order or rule of the commissioner;

(4) Failure or refusal to pay over, upon demand, to any legal service insurer he represents or has represented, any money coming into his hands, belonging to the legal service insurance corporation;

(5) In the conduct of business under the registration, he has engaged in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts or practices are or may be defined under section 27-7-19 or the Alabama Insurance Code, or has otherwise shown himself to be a source of injury or loss to the public or detrimental to the public interest; and

(6) Conviction of a felony.

§27-43-18. Procedure for refusal, suspension, revocation, etc., of registration of contracting sales agent.

(a) If any contracting sales agent is convicted by a court of a violation of any provision of this chapter, the registration of such individual shall thereby be deemed to be immediately revoked without any further procedure relative thereto by the commissioner.

(b) As to a registration denied, suspended or revoked by the commissioner, the persons aggrieved thereby shall have the right to a hearing thereon as provided in section 27-7-37.

(c) If, after an investigation or upon other evidence, the department has reason to believe that there may exist any one or more grounds for the suspension or revocation of, or refusal to renew or continue, the registration of any contracting sales agent, as such grounds are specified in sections 27-43-16 and 27-43-17, the department may proceed to suspend, revoke or refuse to renew or continue the registration as the case may be.

(d) Whenever it appears that any licensed insurance agent has violated the provisions of this chapter, the commissioner may take such action relative thereto as is authorized by the Alabama Insurance Code as for a violation of the Alabama Insurance Code by such agent.

§27-43-19. Imposition of administrative penalty in lieu of suspension, revocation, etc., of registration.

(a) If, pursuant to procedures provided for in this chapter, it is found that one or more grounds exist for the suspension or revocation of, or refusal to renew or continue, any registration issued under this chapter, except when such suspension, revocation or refusal is mandatory, an order may be entered imposing upon the registrant, in lieu of such suspension, revocation or refusal, an administrative penalty for each violation in the amount of \$100.00 or, in the event of willful misconduct or willful violation on the part of the registrant, an administrative fine of \$500.00. The administrative penalty may be augmented in amount by an amount equal to any commissions received by or accruing to the credit of the registrant in connection with any transaction to which the grounds for suspension, revocation or refusal related.

(b) The order may allow the registrant a reasonable period, not to exceed 30 days, within which to pay to the commissioner the amount of the penalty so imposed. If the registrant fails to pay the penalty in its entirety to the commissioner at his office in Montgomery within the period so allowed, the registration of the registrant shall stand suspended or revoked, or renewal or continuation may be refused, as the case may be, upon expiration of such period and without any further proceedings.

§27-43-20. Funds belonging to legal service insurance corporations received by agents to be held in trust; accounting for and disposition of funds by agents; appropriation of funds, etc., by agent.

(a) All funds belonging to legal service insurance corporations or others received by a contracting sales agent in transactions under his registration shall be trust funds so received by such agent in a fiduciary capacity, and the agent, in the applicable regular course of business, shall account for and pay the same to the legal service insurance corporation or other person entitled thereto.

(b) Any contracting sales agent who, not being entitled thereto, diverts or appropriates such funds or any portion thereof to his own use shall, upon conviction, be guilty of theft of property, punishable as provided in sections 13A-8-2 through 13A-8-5 of the Alabama Criminal Code.

§27-43-21. Disposition of moneys received from licenses and fees.

All moneys received from licenses and fees shall be deposited to the credit of the examiners' revolving fund of the department of insurance.

§27-43-22. Promulgation of rules and regulations.

The commissioner shall devise and promulgate rules and regulations, not inconsistent with the provisions of this chapter, as he deems advisable for effectuating its orderly administration.

§27-43-23. Construction of chapter.

Nothing contained in this chapter shall be construed to regulate the practice of law or limit the powers or authority of the supreme court of Alabama or state bar of Alabama in the regulation of the conduct of attorneys.

§27-44-1. Short title.

This chapter shall be known and may be cited as the "Alabama Life and Disability Insurance Guaranty Association Act."

§27-44-2. Purpose of chapter.

The purpose of this chapter is to protect policyowners, insureds, beneficiaries, annuitants, payees, and the assignees of life insurance policies, disability insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment or insolvency of the insurer issuing such policies or contracts. To provide this protection, (1) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages, (2) members of the association are subject to assessment to provide funds to carry out the purpose of this chapter, and (3) the association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies.

§27-44-3. Scope of chapter.

(a) This chapter shall apply to direct life insurance policies, disability insurance policies, annuity contracts, and contracts supplemental to life and disability insurance policies, and annuity contracts issued by persons licensed to transact insurance in this state at any time, except as limited by this section.

(b) This chapter shall not apply to:

(1) That portion or part of a variable life insurance or variable annuity contract not guaranteed by an insurer.

(2) That portion or part of any policy or contract under which the risk is borne by the policyholder.

(3) Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.

(4) Any policy or contract issued by non-profit hospital and medical service plans, fraternal benefit societies, cooperative hospital associations, or health maintenance organizations.

(5) A policy or contract providing coverage to persons not specified in subsection (c).

(c) This chapter shall provide coverage for the policies and contracts specified in subsection (a) as follows:

(1) To persons who, regardless of where they reside (except for non-resident certificate holders under group policies or contracts), are the beneficiaries, assignees, or payees of the persons covered under subdivision (2).

(2) To persons who are owners of, or certificate holders under, covered policies or contracts, and who are residents, or are not residents, but only under all of the following conditions:

a. The insurers which issued the policies or contracts are domiciled in this state.

b. The insurers at the time of issuance of the policies or contracts did not hold licenses or certificates of authority in the state in which such persons reside.

c. The persons are not eligible for coverage by a guaranty association of another state providing protection substantially similar to that provided by this chapter for residents of this state.

(d) Any member insurer that has been declared insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction prior May 17, 1993 shall be subject to this chapter as it existed prior to May 17, 1993.

§27-44-4. Construction of chapter.

This chapter shall be liberally construed to effect the purpose under section 27-44-2 which shall constitute an aid and guide to interpretation.

§27-44-5. Definitions.

As used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **ACCOUNT.** Either of the three accounts created under section 27-44-6.

(2) **ASSOCIATION.** The Alabama life and disability insurance guaranty association created under section 27-44-6.

(3) **COMMISSIONER.** The commissioner of insurance of this state.

(4) **CONTRACTUAL OBLIGATION.** Any obligation under covered policies.

(5) **COVERED POLICY.** Any policy or contract within the scope of this chapter under section 27-44-3.

(6) **IMPAIRED INSURER.** A member insurer deemed by the commissioner after January 1, 1983 to be potentially unable to fulfill its contractual obligations and not an insolvent insurer.

(7) **INSOLVENT INSURER.** A member insurer which after January 1, 1983, becomes insolvent and is placed under a final order of liquidation, rehabilitation or conservation by a court of competent jurisdiction.

(8) **MEMBER INSURER.** Any insurer licensed to transact in this state any kind of insurance to which this chapter applies under section 27-44-3.

(9) **PREMIUMS.** Direct gross insurance premiums and annuity considerations received on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. "Premiums" do not include premiums and considerations on contracts between insurers and reinsurers.

(10) **PERSON.** Any individual, corporation, partnership, association or voluntary organization.

(11) **RESIDENT.** Any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom contractual obligations are owed.

§27-44-6. Creation of association; membership; accounts; supervision.

(a) There is created a nonprofit unincorporated legal entity to be known as the Alabama life and disability insurance guaranty association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under the plan of operation established and approved under section 27-44-10 and shall exercise its powers through a board of directors established under section 27-44-7. For purposes of administration and assessment the association shall maintain three accounts:

- (1) The disability insurance account;
- (2) The life insurance account; and
- (3) The annuity account.

(b) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state.

§27-44-7. Board of directors; selection of members; vacancies; organizational meeting; reimbursement for expenses.

(a) The board of directors of the association shall consist of not less than five nor more than nine member insurers serving terms as established in the plan of operation. At all times, at least one member of the board shall be a domestic insurer as defined in section 27-1-2(6). The members of the board shall be selected by member insurers subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner. To select the initial board of directors, and initially organize the association, the commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting, each member insurer shall be entitled to one vote in person or by proxy. If the board of directors is not selected within 60 days after notice of the organizational meeting, the commissioner may appoint the initial members.

(b) In approving selections or in appointing members to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

(c) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors, but members of the board shall not otherwise be compensated by the association for their services.

§27-44-8. Powers and duties of association.

In addition to the powers and duties enumerated in other sections of this chapter:

(1) If a domestic insurer is an impaired insurer, the association may subject to any conditions imposed by the association other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the commissioner:

a. Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of the impaired insurers;

b. Provide such moneys, pledges, notes, guarantees, or other means as are proper to effectuate paragraph a, and assure payment of the contractual obligations of the impaired insurer pending action under paragraph a;

c. Loan money to the impaired insurer.

(2) If a domestic insurer is an insolvent insurer, the association shall, subject to the approval of the commissioner:

a. Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured the covered policies of the insolvent insurer;

b. Assure payment of the contractual obligations of the insolvent insurer; and

c. Provide such moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

(3) If a foreign or alien insurer is an insolvent insurer, the association shall, subject to the approval of the commissioner:

a. Guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of residents;

b. Assure payment of the contractual obligations of the insolvent insurer to residents; and

c. Provide such moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

Provided, however, that this subdivision shall not apply where the commissioner has determined that the foreign or alien insurer's domiciliary jurisdiction or state of entry provides, by statute, protection substantially similar to that provided by this chapter for residents of this state.

(4) a. In carrying out its duties under subdivisions (2) and (3), permanent policy liens, or contract liens may be imposed in connection with any guarantee, assumption or reinsurance agreement, if the court:

1. Finds that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, to be in the public interest; and

2. Approves the specific policy liens or contract liens to be used.

b. Before being obligated under subdivisions (2) and (3) the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans in addition to any contractual provisions for deferral of cash or policy loan values, and such temporary moratoriums and liens may be imposed if they are approved by the court.

(5) If the association fails to act within a reasonable period of time as provided in subdivisions (2) and (3) of this section, the commissioner shall have the powers and duties of the association under this chapter with respect to insolvent insurers.

(6) The association may render assistance and advice to the commissioner, upon his request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(7) The association shall have standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this chapter. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations.

(8) a. Any person receiving benefits under this chapter shall be deemed to have assigned the rights under the covered policy to the association to the extent of the benefits received because of this chapter whether the benefits are payments of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this chapter upon such person. The association shall be subrogated to these rights against the assets of any insolvent insurer.

b. The subrogation rights of the association under this subdivision shall have the same priority against the assets of the insolvent insurer as that possessed by the person entitled to receive benefits under this chapter.

(9) The contractual obligations of the insolvent insurer for which the association becomes or may become liable shall be as great as but no greater than the contractual obligations of the insolvent insurer would have been in the absence of an insolvency unless such obligations are reduced as permitted by subdivision (4) but the aggregate liability of the association shall not exceed \$100,000.00 in cash values, or \$300,000.00 for all benefits, including cash values, with respect to any one life.

(10) The association may:

a. Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this chapter;

b. Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under section 27-44-9;

c. Borrow money to effect the purposes of this chapter. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

d. Employ or retain such persons as are necessary to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this chapter;

e. Negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;

f. Take such legal action as may be necessary to avoid payment of improper claims;

g. Exercise, for the purpose of this chapter, and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired or insolvent insurer.

§27-44-9. Assessments.

(a) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after prior written notice to the member insurers and shall accrue interest at six percent per annum on and after the due date.

(b) There shall be three classes of assessments, as follows:

(1) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses and examinations conducted under the authority of section 27-44-12(5) not related to a particular impaired or insolvent insurer.

(2) Class B assessments shall be made to the extent necessary to carry out

the powers and duties of the association under section 27-44-8 with regard to an impaired or insolvent domestic insurer.

(3) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 27-44-8 with regard to an insolvent foreign or alien insurer.

(c)(1) The amount of any Class A assessment shall be determined by the board and may be made on a non-pro rata basis. Such assessment shall not exceed \$50.00 per company in any one calendar year. The amount of any Class B or C assessment shall be allocated for assessment purposes among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to the premiums received by such insurer for such calendar year on all covered policies.

(2) Class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bears to such premiums received on business in this state for the calendar year preceding the assessment by all assessed member insurers.

(3) Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired or insolvent insurer on policies covered by such account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to such premiums received in all such states for such calendar year by the impaired or insolvent insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bears to such premiums received on business in each state for the calendar year preceding assessment by all assessed member insurers.

(4) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this chapter. Classification of assessments under subsection (b) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(d) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(e) The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed one percent of such insurer's premiums received in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this chapter.

(f) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(g) The association shall issue to each insurer paying an assessment under this chapter, other than a Class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

§27-44-10. Submission of plan of operation and amendments; promulgation of rules in absence of plan.

(a)(1) The association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commissioner.

(2) If the association fails to submit a suitable plan of operation within 180 days following January 1, 1983 or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this chapter. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(b) All member insurers shall comply with the plan of operation.

(c) The plan of operation shall, in addition to requirements enumerated elsewhere in this chapter:

(1) Establish procedures for handling the assets of the association.

(2) Establish the amount and method of reimbursing members of the board of directors under section 27-44-7.

(3) Establish regular places and times for meetings of the board of directors.

(4) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors.

(5) Establish the procedures whereby selections for the board of directors will be made and submitted to the commissioner.

(6) Establish any additional procedures for assessments under section 27-44-9.

(7) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(d) The plan of operation may provide that any or all powers and duties of the association, except those under sections 27-44-8 (10) c and 27-44-9, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any functions of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this chapter.

§27-44-11. Duties and powers of commissioner; appeal to commissioner from action of board or association; judicial review; notification of interested persons by liquidator, etc., of impaired insurer.

In addition to the duties and powers enumerated elsewhere in this chapter:

(1) The commissioner shall:

a. Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer.

b. When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this chapter.

c. In any liquidation or rehabilitation proceeding involving a domestic insurer, petition the court of competent jurisdiction to have the chief of the receivership division appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the chief of the receivership division shall be appointed conservator.

(2) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer

which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed five percent of the unpaid assessment per month but no forfeiture shall be less than \$100.00 per month.

(3) Any action of the board of directors or the association may be appealed to the commissioner by any member insurer if such appeal is taken within 30 days of the action being appealed. Any final action or order of the commissioner shall be subject to judicial review in a court of competent jurisdiction.

(4) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this chapter.

§27-44-12. Duties of commissioner and board with regard to detection and prevention of insolvencies or impairment.

To aid in the detection and prevention of insurer insolvencies or impairment:

(1) It shall be the duty of the commissioner:

a. To notify the commissioners of those states, territories of the United States and the District of Columbia where such member company is licensed when he takes any of the following actions against a member insurer:

1. Revocation of license;

2. Suspension of license;

3. Makes any formal order that such company restrict its premium writing or obtain additional contributions to capital or surplus.

Such notice shall be mailed to all commissioners within 30 days following the action taken or the date on which such action occurs.

b. To report to the board of directors when he has taken any of the actions set forth in paragraph a of this subdivision or has received a report from any other commissioner indicating that any such action has been taken in another state. Such report to the board of directors shall contain all significant details of the action taken on the report received from another commissioner.

c. To report to the board of directors when he has reasonable cause to believe from any examination, whether completed or in process, of any member company that such company may be an impaired or insolvent insurer.

d. To furnish to the board of directors upon its request the insurance regulatory information system ratios developed by the National Association of Insurance Commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. Such report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

(2) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting his duties and responsibilities regarding the financial condition of member companies and companies seeking admission to transact insurance business in this state.

(3) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or germane to the solvency of any company seeking to do insurance business in this state. Such reports and recommendations shall not be considered public documents.

(4) It shall be the duty of the board of directors, upon majority vote, to notify the commissioner of any information indicating any member insurer may be an impaired or insolvent insurer.

(5) The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within 30 days of the receipt of such request, the commissioner shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners' examination or may be conducted by such persons as the commissioner designates. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subdivision (1). The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public.

(6) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(7) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the commissioner containing such information as it may have in its possession bearing on the history and causes of such insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes for insolvency of a particular insurer, and may adopt by reference any report prepared by such other associations.

§27-44-13. Credits for assessments paid.

(a) A member insurer may offset against its premium tax liability to this state an assessment described in section 27-44-9(g) to the extent of 20 percent of the amount of such assessment for each of the five calendar years following the year in which such assessment was paid.

(b) Any sums acquired by refund, pursuant to section 27-44-9(f), from the association which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (a) above, and are not then needed for purposes of this chapter, shall be paid by the association to the

commissioner and by him deposited with the state treasurer for credit to the general fund of this state.

§27-44-14. Liability of unpaid assessments; records of negotiations and meetings; association deemed creditor of impaired or insolvent insurer; judicial distribution of ownership rights of insolvent insurer; recovery by receiver of certain distributions from controlling affiliates.

(a) Nothing in this chapter shall be construed to reduce the liability for unpaid assessments of the insureds on an impaired or insolvent insurer operating under a plan with assessment liability.

(b) Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under section 27-44-8. Records of such negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the association to render a report of its activities under section 27-44-15.

(c) For the purpose of carrying out its obligations under this chapter, the association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to section 27-44-8(8). Assets of the impaired or insolvent insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this chapter. Assets attributable to covered policies, as used in this subsection, are that proportion of the assets which the reserves that should have been established for such policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(d) (1) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders and policyowners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such insolvent insurer. In such a determination consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

(2) No distribution to stockholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the association for funds expended in carrying out its powers and duties under section 27-44-8 with respect to such insurer have been fully recovered by the association.

(e) (1) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for

liquidation or rehabilitation subject to the limitations of subdivisions (2) to (4) of this subsection.

(2) No such dividend shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) Any person who was an affiliate that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared, shall be liable up to the amount of distributions he would have received if they had been paid immediately. If two persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(4) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

(5) If any person liable under subdivision (3) of this subsection is insolvent, all its affiliates that controlled it at the time the dividend was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

§27-44-15. Examination and regulation of association; annual report.

The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner, not later than May 1 of each year, a financial report for the preceding calendar year in a form approved by the commissioner and a report of its activities during the preceding calendar year.

§27-44-16. Tax exemptions.

The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real or personal property.

§27-44-17. Immunity under chapter.

There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or his representatives, for any action taken by them in the performance of their powers and duties under this chapter.

§27-44-18. Stay of proceedings; reopening default judgments.

All proceedings in which the insolvent insurer is a party in any court in this state shall be stayed 60 days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on any matters germane to its powers or duties. As to judgment under any decision,

order, verdict, or finding based on default the association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

§27-44-19. Repealed by Acts 1983, 2nd Ex. Sess., No. 83-125, p. 133, effective February 22, 1983.

§27-44-20. Association, policyholders, beneficiaries and insureds to have preferred creditor status.

Upon the issuance of a proper court order placing a domestic insurer in receivership or placing a foreign insurer in ancillary receivership for rehabilitation or liquidation, all policyholders, beneficiaries and insureds of such insolvent insurer, with respect to claims arising from and within the coverage of and not in excess of the applicable limits of insurance policies and contracts issued by the insolvent insurer and the Alabama life and disability insurance guaranty fund shall be preferred creditors of said insolvent insurer.

§27-44-21. Immediate access of associations in this and other states to assets of insolvent insurer; application to court; contents of proposal; notice.

(a) Within 120 days of a final determination of insolvency of an insurance company by a court of competent jurisdiction the receiver shall make application to the said court for approval of a proposal to disburse assets out of such company's marshalled assets, from time to time as such assets become available, to the Alabama life and disability insurance guaranty association and to any entity or person performing a similar function in another state. (The Alabama life and disability insurance guaranty association and any entity or person performing a similar function in other states shall hereinafter be referred to collectively as associations.)

(b) Such proposal shall at least include provisions for:

(1) Reserving amounts for the payment of expenses of administration and claims falling within the priorities established in the Alabama Uniform Insurers Liquidation Act (subdivisions (2) through (13) of section 27-32-1 and sections 27-32-4, 27-32-5, 27-32-15 through 27-32-22) but only with respect to such priorities higher than that of the associations;

(2) Disbursement of the assets marshalled to date and subsequent disbursements of assets as they become available;

(3) Equitable allocation of disbursements to each of the associations entitled thereto;

(4) The securing by the receiver from each of the associations entitled to disbursements pursuant to this section of an agreement to return to the receiver such assets previously disbursed as may be required to pay claims of secured creditors and claims with a higher priority than those of the associations. No bond shall be required of any such association; and

(c) The receiver's proposal shall provide for disbursements to the associations in amounts at least equal to the payments made or to be made

thereby for which such associations could assert claims against the receiver, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of such payments made or to be made by the associations then disbursements shall be in the amount of available assets.

(d) Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first class postage prepaid, at least 30 days prior to submission of such application to the said court. Action on the application may be taken by the said court provided that above required notice has been given and provided further that the receiver's proposal complies with subdivisions (1) and (4) of subsection (b) hereof.

The committee shall meet as soon as practicable after its appointment to select a Chair to preside over its meetings, and Vice-chair to preside over meetings in the absence of the Chair. The committee shall meet upon the call of the Chair or a majority vote of its members.

The committee shall report the findings, analysis, and recommendations of its interim study to the House of Representatives not later than the tenth legislative day of the 1994 Regular Session, at which time the committee will be dissolved.

Upon request of the Chair, the Clerk of the House shall provide any meeting space and clinical assistance as is necessary for the work of the committee. Committee members shall receive their normal legislative per diem and travel allowance for each day they attend official meetings of the committee, except if the meeting coincides with a normal meeting day of the Legislature for which they are compensated and reimbursed. Expenses of the committee shall be payable from any funds made available to the House of Representatives.

The resolution, H.J.R. 447, was read and referred to the Standing Committee on Rules.

Also:

By Representative Lindsey:

H.J.R. 448. COMMENDING O. L. "BUD" LEWIS OF BLANCHE, ALABAMA.

WHEREAS, the Alabama Legislature, in consensus of commendation, recognizes O. L. "Bud" Lewis of Blanche, Alabama, for his longtime, dedicated service to the Cherokee County Hospital and Nursing Home Board; and

WHEREAS, born July 4, 1912, in Blanche, Alabama, the son of Mark and Angie Lewis, Bud Lewis attended elementary school at Blanche, graduated from Gaylesville High School, and married the former Hazel Goodman with whom he has shared a long and happy marriage and the joy of a son, Franklin T. Lewis; and

WHEREAS, Bud Lewis began working at the Leonard Lawrence Store at Blanche in 1936, and, following employment with Brown Lumber Company for some ten years (1937-47), owned and operated his own business in Blanche until his retirement in 1972; and

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WHEREAS, for more than 40 years since its origination in 1953, Mr. Lewis has served, and continues to serve, as a faithful and dedicated member of the Cherokee County Hospital and Nursing Home Board; he has further served his community as a member of the ASC Committee (1961-1979), Cherokee County Jury Commission (1966-1982), and has been a faithful member of Blanche United Methodist Church since 1926, and an active Mason for 52 years (1942-1994); now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to the Blanche/Cherokee County community, we hereby most highly commend Mr. O. L. "Bud" Lewis, for whom a copy of this resolution of sincere tribute shall be provided.

On motion of Representative Lindsey, the rules were suspended and the resolution, H.J.R. 448, was adopted.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 845. Relating to Baldwin County; to provide for the regulation by the county commission of the construction setback from any county or state public road or highway; and to provide for appeals and exceptions.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Penry, the House concurred in and adopted the Senate amendment to the bill, H. 845, said Senate amendment being as follows:

**A BILL
TO BE ENTITLED
AN ACT**

Relating to Baldwin County; to provide for the regulation by the county commission of the construction setback from any county or state public road or highway; and to provide for appeals and exceptions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This bill shall apply only to Baldwin County.

Section 2. The Baldwin County Commission, through the county planning and zoning commission, shall regulate the construction setback from the centerline of any state or county public road or highway located outside the corporate limits of a municipality in Baldwin County.

Section 3. The provisions of this act do not apply to poles, facilities, structures, water, gas, sewer, electric, telephone, bill boards, or utility lines or other facilities of public utilities.

Section 4. The construction setback from any state or county public road or highway shall vary according to the highway functional classifications submitted by the Baldwin County Commission and approved by the Federal Highway Administration for Baldwin County.

Section 5. The functional classifications and the construction setbacks required for each classification are established as follows:

(1) Principal arterials require a one hundred twenty-five (125) foot setback from the centerline of the right-of-way.

(2) Minor arterials require a one hundred (100) foot setback from the centerline of the right-of-way.

(3) Major collectors require a seventy-five (75) foot setback from the centerline of the right-of-way.

(4) Minor collectors require a fifty (50) foot setback from the centerline of the right-of-way.

Section 6. No permanent structure shall be erected or constructed within the designated construction setback.

Section 7. Any landowner or other aggrieved party may appeal any decision made pursuant to this act by filing Notice with the Baldwin County Planning and Zoning Commission within a reasonable time after such decision. On such appeal, the Baldwin County Planning and Zoning Commission shall have authority to grant such relief as it may deem appropriate to remedy a gross inequity or extreme economic hardship as may be occasioned by strict enforcement of this act or any determination made pursuant to it. From the decision of the Baldwin County Planning and Zoning Commission, and within thirty days (30) thereof, any party may appeal the decision to the Circuit Court of Baldwin County, Alabama, for trial, de novo.

Section 8. The county may institute an appropriate civil action to prevent an unlawful setback or to otherwise enforce this act.

Section 9. The provisions of this act are supplemental to any laws or any rules, regulations, or ordinances, state or local, relating to the right-of-way and the construction setback along or near any county or state public road or highway outside the corporate limits of a municipality in Baldwin County. This act shall supersede any laws or parts of laws including any part of Act No. 87-774, H.1073, 1977 Regular Session (Acts of Alabama 1987, p. 1512), or any rules, regulations, or ordinances which directly conflict with this act.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Yeas 75; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Black (L), Black (M), Blakeney, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carothers, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Dolbare, Flowers, Freeman, Fuller, Gaston, Goodwin, Gullatt, Hall (A), Hamilton, Hammett, Harvey, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Lindsey, Mathis, McClain, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Newton (C), Page, Parker (P), Parker (T), Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (J), Sanderford, Smith (C), Smith (R), Spratt, Thomas, Turner, Turnham, Venable, Walker, Warren and Willis.

-75

SPECIAL ORDER CALENDAR RESUMED

And the bill:

S. 328. To revise the present bail system, by specifically defining the types of bond and to establish rules, regulations, and laws to guarantee that all persons, regardless of their financial or social status, shall not needlessly be detained pending their appearance to answer criminal charges; to establish a secure form of property bond; to establish laws that ensure speedy release on bond; to establish laws that ensure the payment to the State of Alabama and its subdivisions of monies owed from defaults of bond; to expressly repeal Act No. 93-677, S. 422, 1993 Regular Session, now appearing as Sections 15-13-100 to 15-13-164, inclusive, Code of Alabama 1975, Sections 15-13-61, 15-13-62, 15-13-63, 15-13-81, and 15-13-82, Code of Alabama 1975, and Act No. 93-901, S. 25, 1993 First Special Session; and to amend Section 15-13-80, Code of Alabama 1975.

was taken up.

AMENDMENT OFFERED

Representative Campbell offered the following amendment to the bill, S. 328:

Delete entirely Sections 11 and 14 on pages 7, 8, and 9, and in lieu thereof insert the following new Sections 11 and 14:

Section 11. Obligation of Sureties Continues Until Defendant Granted or Denied Probation.

The obligation of the sureties continues throughout every stage of the proceedings in the case, until discharged by law. The obligation of the sureties is also discharged when the court takes any of the following actions:

- (1) Grants the prosecutor's motion to nol pros the case.
- (2) Dismisses the case.
- (3) Places the defendant on probation.
- (4) Denies the defendant's probation.
- (5) Sentences the defendant when the defendant does not request probation or is not eligible for probation.

Section 14. Arrest of Defendant and Payment of Court Costs by Surety After Conditional Forfeiture.

After the entry of a conditional forfeiture against any surety on an undertaking of bail, the surety may arrest the defendant as provided in this act, and pay the costs of the court associated with the issuance of the conditional forfeiture, and the arrest and delivery of the defendant to the authorized jail, by the surety, as provided in this act, together with payment of the court costs, within 28 days from service of the conditional forfeiture on the surety, shall exonerate the surety's liability in its entirety. If the arrest and delivery of the defendant to the authorized jail occurs after 28 days from the date of service on the surety, then the arrest and delivery, and payment of costs, shall not exonerate the surety unless, in the judgment of the court, good and sufficient cause is given for the failure of the defendant to appear at the time the conditional judgment was entered.

On page 13, line 23, between the words "be" and "forwarded" add the following: paid toward the defendant's court-ordered obligations. Any remaining funds shall be

On page 17, immediately after line 13, add the following new Section 29 and renumber the remaining sections accordingly:

Section 29. Use of Forfeiture Funds.

All forfeiture funds paid into court shall first be applied to the payment of any and all court-ordered obligations or any other costs associated with the defendant's failure to appear. Any excess funds shall then be paid into the State General Fund, if a circuit or district court, and the Municipal General Fund if a municipal court.

On page 18, line 7, after "subdivision," add the following language: and restitution order, if any,

MOTION TO TABLE LOST

The motion offered by Representative Holmes to table the amendment offered by Representative Campbell to the bill, S. 328, was lost.

Yeas 4; Nays 79.

Yea:

Representatives Barnes, Holmes, Perdue and Rogers (J).

- 4

Nay:

Representatives Anderson, Beasley, Biddle, Black (M), Blakeney, Bowling, Box, Buskey, Cagle, Campbell, Carns, Carothers, Carter, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Ford, Freeman, Fuller, Gaston, Goodwin, Gullatt, Hall (L), Hamilton, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Hooper, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Lindsey, Mathis, McDaniel, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Turner, Venable, Walker, Warren, Williams, Willis and Zoghby.

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AMENDMENT ADOPTED

The question was then on the adoption of the amendment offered by Representative Campbell to the bill, S. 328, and the amendment was adopted.

Yeas 96; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Buskey, Cagle, Campbell, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Venable, Walker, Warren, Williams, Willis and Zoghby.

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MOTION IN WRITING OFFERED

Representative Freeman offered the following Motion in Writing relating to the bill, S. 328:

I move the previous question.

MOTION IN WRITING ADOPTED

And the Motion in Writing was adopted.

Yeas 39; Nays 24.

Yea:

Representatives Beasley, Cagle, Campbell, Carothers, Collins, Cosby, Crow, Cullins, Curry, Freeman, Gaston, Gullatt, Hall (A), Hall (L), Harvey, Hawkins, Haynes, Hill, Hilliard, Hogan, Johnson, Knight (A), Kvalheim, Laird, Layson, Mathis, Melton, Millican, Morrow, Morton, Newton (C), Parker (P), Rockhold, SandersonB, Spratt, Starkey, Turner, Warren and Zoghby.

-39

Nay:

Representatives Anderson, Blakeney, Box, Clark (W), Clay, Flowers, Fuller, Haney, Holladay, Holley, Letson, McDaniel, McMillan, Mikell, Parker (T), Payne, Penry, Petelos, Poole, Sanderford, Smith (R), Turnham, Williams and Willis.

-24

And the bill, S. 328, as amended, was read a third time at length and passed.

Yeas 90; Nays 4.

Yea:

Mr. Speaker, Barnes, Beasley, Biddle, Black (L), Black (M), Box, Bryant, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Gullatt, Hamilton, Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Wills and Zoghby.

-90

Nay:

Representatives Anderson, Goodwin, Hall (A) and Letson.

- 4

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 845. Relating to Baldwin County; to provide for the regulation by the county commission of the construction setback from any county or state public road or highway; and to provide for appeals and exceptions.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Presiding Officer of the Senate having signed the following Senate Bill, your signature thereto is requested:

S. 103. To amend Section 36-21-2, Code of Alabama 1975, to provide further for the subsistence allowance of law enforcement officers to include on a graduated basis officers with the Department of Corrections.

McDOWELL LEE
Secretary

SIGNING OF SENATE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been

dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Message from the Senate.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Presiding Officer of the Senate having signed the following Senate Bills, your signature thereto is requested:

S. 344. To amend Section 40-23-5, Code of Alabama 1975, to provide further for sales and use tax exemptions for certain organizations and to provide for retroactive effect.

Also:

S. 367. To amend Section 37-1-11 of the Code of Alabama 1975, relating to compensation of the members of the Public Service Commission so as to further provide for the compensation of the members of the Public Service Commission.

McDOWELL LEE
Secretary

SIGNING OF SENATE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Message from the Senate.

SPECIAL ORDER CALENDAR RESUMED

And the bill:

S. 348. To amend Section 12-17-40, Code of Alabama 1975, relating to supernumerary circuit judges, so as to provide further for the individuals who may qualify as supernumerary judges.

was taken up.

MOTION TO ADJOURN LOST

The motion offered by Representative Holmes that the House adjourn until 10:00 o'clock a.m., Monday, April 25, 1994, was lost.

Yeas 33; Nays 51.

Yea:

Representatives Anderson, Biddle, Black (L), Bowling, Bryant, Buskey, Cagle, Clay, Drake, Gaston, Hall (L), Haney, Hill, Hogan, Holley, Holmes, Letson, Lindsey, Mathis, McClain, McMillan, Mikell, Newton (C), Newton (D), Parker (T), Payne, Perdue, Poole, Powell, Sanderford, Smith (R), Starkey and Walker.

-33

Nay:

Mr. Speaker, Beasley, Box, Burke, Butler, Carns, Carothers, Collins, Cosby, Crow, Curry, Dolbare, Flowers, Freeman, Fuller, Gaines, Gullatt, Hall (A), Hammett, Harper, Hawkins, Haynes, Holladay, Johnson, Knight (A), Kvalheim, Laird, Layson, McDaniel, McDowell, McKee, Melton, Morrow, Morton, Page, Parker (P), Penry, Petelos, Rockhold, Rogers (J), Sanderson, Smith (C), Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

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S. 348 RESUMED

MOTION IN WRITING OFFERED

Representative Haynes offered the following Motion in Writing relating to the bill, S. 348:

I move the previous question.

MOTION IN WRITING LOST

And the Motion in Writing was lost.

Yeas 28; Nays 38.

Yea:

Representatives Beasley, Box, Burke, Carothers, Cosby, Dolbare, Drake, Freeman, Hall (A), Hall (L), Hammett, Harper, Harvey, Haynes, Hill, Hilliard, Johnson, Layson, Page, Parker (P), Rockhold, Rogers (J), Spratt, Starkey, Turner, Warren, White and Zoghby.

-28

Nay:

Representatives Anderson, Barnes, Biddle, Black (L), Blakeney, Bowling, Bryant, Carns, Clay, Cullins, Curry, Fuller, Gullatt, Haney, Hawkins, Higginbotham, Holladay, Holley, Holmes, Knight (J), Laird, Mathis, McKee, McMillan, Melton, Mikell, Morrow, Newton (D), Payne, Poole, Powell, Sanderford, Smith (C), Smith (R), Thomas, Turnham, Walker and Williams.

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RESOLUTION

The following resolution was introduced and distributed according to Joint Rule 11:

By Representative Clark (W):

H.R. 449. MOURNING THE DEATH OF THOMAS C. COUCH OF MOBILE, ALABAMA.

MOTION TO ADJOURN LOST

The motion offered by Representative Holmes that the House adjourn until 10:00 o'clock a.m., Monday, April 25, 1994, was lost.

Yeas 39; Nays 47.

Yea:

Representatives Barnes, Black (L), Black (M), Bowling, Bryant, Buskey, Cagle, Carter, Clay, Collins, Hall (L), Haney, Hawkins, Higginbotham, Hill, Holley, Holmes, Knight (J), Laird, Layson, Letson, Lindsey, Mathis, McClain, McMillan, Melton, Mikell, Millican, Morrow, Newton (D), Parker (T), Payne, Perdue, Poole, Rogers (F), Sanderford, Smith (R), Starkey and Thomas.

-39

Nay:

Mr. Speaker, Anderson, Beasley, Blakeney, Box, Carothers, Clark (W), Cosby, Crow, Curry, Dolbare, Flowers, Freeman, Fuller, Gaines, Gaston, Gullatt, Hall (A), Hammett, Harper, Haynes, Hilliard, Holladay, Johnson, Knight (A), Kvalheim, McDaniel, McDowell, McKee, Morton, Newton (C), Page, Parker (P), Penry, Petelos, Powell, Rockhold, Sanderson, Smith (C), Spratt, Turner, Venable, Warren, White, Williams, Willis and Zoghby.

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S. 348 RESUMED**AMENDMENT OFFERED**

Representative Rogers (J) offered the following amendment to the bill, S. 348:

To amend the bill on page 2, line 25 by adding after the period the following:

"In addition, to the above provision any legislator who serves ten years in the Alabama legislature shall be considered a supernumerary circuit judge".

AMENDMENT TABLED

On motion of Representative Harper, the amendment offered by Representative Rogers (J) to the bill, S. 348, was tabled.

Yeas 58; Nays 19.

Yea:

Mr. Speaker, Anderson, Beasley, Biddle, Black (M), Bowling, Box, Burke, Cagle, Campbell, Carns, Collins, Cosby, Crow, Dolbare, Drake, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hammett, Harper, Hawkins, Haynes, Higginbotham, Holladay, Johnson, Layson, Letson, Lindsey, Mathis, McDaniel, McKee, McMillan, Millican, Page, Parker (P), Parker (T), Payne, Penry, Petelos, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Starkey, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-58

Nay:

Representatives Barnes, Black (L), Clark (W), Curry, Haney, Hill, Hilliard, Holmes, Knight (A), Knight (J), McDowell, Morton, Newton (D), Perdue, Powell, Smith (R), Spratt, Turner and Walker.

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PERMISSION GRANTED

Permission was granted for the Journal to reflect that Representative Curry inadvertently voted "Nay" on the motion offered by Representative Harper to table the amendment offered by Representative Rogers (J) to the bill, S. 348, and intended to vote "Yea".

RESOLUTION

The following resolution was introduced:

By Representative Box:

H.J.R. 450. COMMENDING THE SENIOR MEMBERS OF THE SATSUMA HIGH SCHOOL BAND, SATSUMA, ALABAMA.

WHEREAS, it is with highest commendation and heartiest praise that the Alabama Legislature recognizes the Senior Members of the Satsuma High School Band for outstanding achievement; and

WHEREAS, under the able directorship of Stan Chapman, Senior Band Members Sonya Atwood, Tim Charest, Tony Gerenger, Don Green, Jason Hise, Shane Smith, Jennifer Terrell, Derek Thomas, and Joy Toxey, have realized phenomenal success over their last four years at Satsuma High; and

27th Day

WHEREAS, in 9th grade, they received Superior ratings at the University of Southern Mississippi, Peach Blossom Festival, and Deep South and District VII ABA Contests; in 10th grade: Superior ratings at Deep South and District VII ABA Contests; in 11th grade: Superior ratings at Valley Marching Contests and Deep South and District VII ABA Contests, and appeared at the Senior Bowl; and in 12th grade: Superior ratings at Pace, Florida Contests and Deep South and District VII ABA Contests; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most sincerely commend and congratulate the Senior Members of the Satsuma High School Band, and do further direct that copies of this resolution be provided for Band Director Stan Chapman, each Senior Member of the band, and Principal Lee Shoquist for appropriate presentation and school display.

On motion of Representative Box, the rules were suspended and the resolution, H.J.R. 450, was adopted.

S. 348 RESUMED**MOTION IN WRITING OFFERED**

Representative Freeman offered the following Motion in Writing relating to the bill, S. 348:

I move the previous question.

MOTION IN WRITING LOST

And the Motion in Writing was lost.

Yeas 33; Nays 38.

Yea:

Representatives Beasley, Bowling, Box, Burke, Butler, Carothers, Cosby, Drake, Freeman, Gaston, Gullatt, Hall (A), Harper, Haynes, Holladay, Johnson, Kvalheim, Layson, Melton, Morrow, Page, Penry, Petelos, Rockhold, Sanderson, Spratt, Starkey, Turner, Warren, White, Williams, Willis and Zoghyby.

-33

Nay:

Representatives Barnes, Biddle, Black (L), Blakeney, Buskey, Cagle, Carns, Clark (W), Clay, Collins, Crow, Cullins, Fuller, Goodwin, Haney, Hawkins, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper, Knight (J), Laird, McKee, McMillan, Mikell, Newton (C), Parker (P), Parker (T), Payne, Poole, Powell, Rogers (F), Sanderford, Smith (C), Turnham and Walker.

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MOTION TO ADJOURN LOST

The motion offered by Representative Holley that the House adjourn until 10:00 o'clock a.m., Monday, April 25, 1994, was lost.

Yeas 42; Nays 43.

Yea:

Representatives Barnes, Biddle, Black (L), Black (M), Bowling, Cagle, Campbell, Carns, Collins, Cullins, Curry, Drake, Flowers, Goodwin, Hall (L), Hamilton, Haney, Hawkins, Higginbotham, Hill, Hogan, Holley, Hooper, Laird, Letson, Lindsey, Mathis, McMillan, Melton, Mikell, Millican, Newton (D), Parker (T), Payne, Perdue, Rich, Sanderford, Smith (R), Starkey, Thomas, Turnham and Walker.

-42

Nay:

Mr. Speaker, Anderson, Beasley, Bryant, Burke, Buskey, Carothers, Clark (W), Cosby, Crow, Freeman, Fuller, Gaines, Gaston, Gullatt, Hall (A), Hammett, Harper, Haynes, Hilliard, Holladay, Johnson, Knight (A), Kvalheim, Layson, McDaniel, McDowell, Newton (C), Page, Parker (P), Penry, Petelos, Poole, Powell, Rockhold, Sanderson, Spratt, Turner, Venable, Warren, Williams, Willis and Zoghby.

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S. 348 RESUMED**MOTION IN WRITING OFFERED**

Representative Haynes offered the following Motion in Writing relating to the bill, S. 348:

I move the previous question.

MOTION IN WRITING LOST

And the Motion in Writing was lost.

Yeas 32; Nays 44.

Yea:

Representatives Beasley, Burke, Carothers, Collins, Cosby, Crow, Drake, Freeman, Gaines, Gaston, Gullatt, Hall (A), Hall (L), Harper, Hawkins, Haynes, Holladay, Johnson, Kvalheim, Layson, McDaniel, Melton, Morrow, Page, Parker (P), Penry, Rockhold, Sanderson, Starkey, Williams, Willis and Zoghby.

-32

Nay:

Representatives Anderson, Barnes, Biddle, Black (L), Blakeney, Bryant, Cagle, Carns, Cullins, Curry, Fuller, Hamilton, Haney, Higginbotham, Hilliard, Hogan, Holley, Holmes, Knight (A), Knight (J), Laird, Letson, Mathis, McClain, McDowell, McMillan, Mikell, Parker (T), Payne, Petelos, Poole, Powell, Rich, Rogers (F), Rogers (J), Sanderford, Smith (C), Smith (R), Spratt, Thomas, Turner, Turnham, Walker and Warren.

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S. 348 TEMPORARILY CARRIED OVER

On motion of Representative Harper, the bill, S. 348, was temporarily carried over.

REPORT OF CONFERENCE COMMITTEE

We, the Committee on Conference, appointed to reconcile the differences of the two houses concerning House Bill 812, have met in conference and have agreed to accept the attached substitute which is made a part of this report as is fully set out herein.

JAMES S. CLARK
TAYLOR HARPER

Conferees on the Part of the House

LOWELL BARRON
SENATOR WALTER OWENS
SENATOR E. CRUM FOSHEE

Conferees on the Part of the Senate

A BILL TO BE ENTITLED AN ACT

To amend Section 3 and Section 4 of Act No. 93-190, H. 246 of the 1993 Regular Session (Acts 1993, p. 287), making supplemental appropriations to the Alabama Department of Economic and Community Affairs; to remove the condition that supplemental appropriations be made in anticipation of federal funds to be received from the Economic Stimulus Program of the President of the United States for the State Community Development Block Grant Program; and to repeal Section 6 of Act No. 93-190, H. 246 of the 1993 Regular Session (Acts 1993, p. 287), making the supplemental appropriations contingent upon receipt of the federal notice of funding from the Department of Housing and Urban Development for the Economic Stimulus Program.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 3 of Act No. 93-190, H. 246 of Code of Alabama 1975, is amended to read as follows:

"Section 3. In addition to all other appropriations made to the Alabama Department of Economic and Community Affairs, there is appropriated to the department from the State General Fund the sum of \$50,000 for the fiscal year ending September 30, 1993 and the sum of ~~\$629,321~~ \$794,321 for the fiscal year ending September 30, 1994. Of the above appropriation, \$165,000 shall be expended for a statewide emergency warning system."

Section 2. Section 4 of Act No. 93-190, H. 246 of the Code of Alabama 1975, is amended to read as follows:

"Section 4. The appropriations provided to the Alabama Department of Economic and Community Affairs in Section 3 of this act shall be expended for a planning program ~~in anticipation of federal funds to be received from the Economic Stimulus Program of the President of the United States for the State Community Development Block Grant Program and to administer and match these funds.~~ In addition to the funds appropriated in Section 3, the department may also expend funds otherwise appropriated to it for the same purposes."

Section 3. Section 6 of Act No. 93-190, H. 246 of the 1993 Regular Session (Acts 1993, p. 287), making the supplemental appropriations contingent upon receipt of the federal notice of funding from the Department of Housing and Urban Development for the Economic Stimulus Program is specifically repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

REPORT OF THE COMMITTEE ON CONFERENCE ADOPTED

On motion of Representative Harper, the House concurred in and adopted the Report of the Committee on Conference on the disagreement of the two Houses on the Senate amendment to the bill, H. 812, said report being set out in the foregoing Report of the Committee on Conference.

Yeas 92; Nays 0.

Yea:

Mr. Speaker, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Carns, Carothers, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McKee, McMillan, Melton, Mikell, Millican, Morrow, Newton (C), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos,

Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

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REPORT OF CONFERENCE COMMITTEE

We, the Committee on Conference, appointed to reconcile the differences of the two houses concerning House Bill 239, have met in conference and have agreed to accept the attached substitute which is made a part of this report as is fully set out herein.

TAYLOR HARPER
SETH HAMMETT

Conferees on the Part of the House

RYAN deGRAFFENRIED
FRED HORN
B. DON HALE

Conferees on the Part of the Senate

A BILL
TO BE ENTITLED
AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama Cattlemen's Association for the Children's Museum and to the Wiregrass Museum of Art to be used for educational purposes for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the fiscal year ending September 30, 1995, there is hereby appropriated the sum of \$500,000 from the Alabama Special Educational Trust Fund, to the Alabama Cattlemen's Association for the Children's Museum and \$185,000 from the Alabama Special Educational Trust Fund to the Wiregrass Museum of Art for educational purposes.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1994.

**MOTION TO CONCUR AND ADOPT
REPORT OF THE COMMITTEE ON CONFERENCE OFFERED**

Representative Harper offered the motion that the House concur in and adopt the Report of the Committee on Conference on the disagreement of the two Houses on the Senate amendment to the bill, H. 239, said report being set out in the foregoing Report of the Committee on Conference.

MOTION TO ADJOURN LOST

The motion offered by Representative Walker that the House adjourn until 10:00 o'clock a.m., Monday, April 25, 1994, was lost.

Yeas 21; Nays 59.

Yea:

Representatives Biddle, Black (L), Black (M), Bowling, Cagle, Carns, Cullins, Dolbare, Drake, Hall (L), Haney, Holley, Laird, McMillan, Payne, Perdue, Poole, Powell, Sanderford, Starkey and Walker.

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Nay:

Mr. Speaker, Anderson, Barnes, Beasley, Blakeney, Box, Bryant, Burke, Carothers, Clark (W), Clay, Collins, Cosby, Crow, Curry, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hammett, Harper, Hawkins, Haynes, Higginbotham, Hilliard, Hogan, Hooper, Johnson, Kvalheim, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, Melton, Millican, Morrow, Newton (C), Page, Parker (P), Penry, Rockhold, Rogers (F), Sanderson, Smith (C), Spratt, Thomas, Turner, Turnham, Venable, Warren, Williams, Willis and Zoghby.

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REPORT OF THE COMMITTEE ON CONFERENCE ADOPTED

The question was then on the motion offered by Representative Harper that the House concur in and adopt the Report of the Committee on Conference on the disagreement of the two Houses on the Senate amendment to the bill, H. 239, and the motion was adopted.

Yeas 53; Nays 34.

Yea:

Mr. Speaker, Barnes, Beasley, Bowling, Box, Bryant, Burke, Buskey, Butler, Campbell, Carothers, Clark (W), Collins, Cosby, Crow, Drake, Flowers, Freeman, Fuller, Gaston, Hall (A), Hammett, Haney, Harper, Higginbotham, Hill, Hilliard, Holladay, Hooper, Kvalheim, Layson, Lindsey, Mathis, McKee, McMillan, Melton,

Millican, Morrow, Newton (C), Parker (P), Penry, Sanderford, Smith (C), Spratt, Starkey, Turner, Turnham, Venable, Walker, Warren, White, Williams and Willis.

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Nay:

Representatives Anderson, Biddle, Black (L), Black (M), Blakeney, Cagle, Carns, Curry, Dolbare, Gaines, Goodwin, Gullatt, Hall (L), Hawkins, Haynes, Hogan, Holley, Holmes, Johnson, Knight (A), Knight (J), Laird, McClain, McDaniel, McDowell, Mikell, Page, Payne, Perdue, Powell, Rockhold, Rogers (F), Rogers (J) and Zoghby.

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REPORT OF CONFERENCE COMMITTEE

We, the Committee on Conference, appointed to reconcile the differences of the two houses concerning House Bill 241, have met in conference and have agreed to accept the attached substitute which is made a part of this report as is fully set out herein.

DEWAYNE FREEMAN
BILL FULLER
TIM PARKER

Conferees on the Part of the House

CRUM FOSHEE
DELL HILL
MAC PARSONS

Conferees on the Part of the Senate

A BILL TO BE ENTITLED AN ACT

Relating to mental health and mental retardation; providing for the exercise of temporary custody of alleged mentally ill persons by law enforcement and community mental health officers at designated mental health facilities; authorizing the judge of probate to make a finding in order that the county might, with the approval of the county commission, adopt and be covered by the provisions of this act; and providing civil immunity for certain persons acting in good faith pursuant to the provisions of this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used in this act, the following words and phrases shall have the following meanings:

(1) **DESIGNATED MENTAL HEALTH FACILITY.** A mental health facility other than a state mental health facility designated by the State Department of

Mental Health and Mental Retardation to receive persons for evaluation, examination, admission, detention, or treatment pursuant to the commitment process.

(2) **COMMUNITY MENTAL HEALTH OFFICER.** A person who acts as a liaison between law enforcement and the general public, and who is regularly employed by a municipality within the county or regularly employed by the county commission or any public body or agency, including the State Department of Mental Health and Mental Retardation. A community mental health officer may be employed jointly or in combination by two or more governments, entities, or agencies authorized by the immediately preceding sentence. Notwithstanding the foregoing, a community mental health officer shall not be an employee of the Department of Human Resources. A community mental health officer shall possess a minimum of a Bachelor's Degree from an accredited college or university in social work or a related field or, with the approval pursuant to findings of the judge of probate, any equivalent combination of education and experience; at least one year of experience in social work; knowledge of the principles, practices, and techniques of social work as they apply to crisis intervention; knowledge of theory, principles, and practices of psychiatric social work; knowledge of federal, state, and municipal laws regarding the aiding of mental patients; and knowledge of the functions and resources of public and private social agencies in the community. The compensation of the community mental health officer shall be determined by the employing entity, entities, or agency. The State Department of Mental Health and Mental Retardation may pay part or all of the compensation, including fringe benefits, of the community mental health officer employed hereunder.

(3) **COUNTY.** A county in the State of Alabama.

(4) **LAW ENFORCEMENT OFFICER.** A policeman regularly employed by a municipality within the county or a sheriff or deputy sheriff regularly employed by the county.

(5) **WITHIN THE COUNTY.** A place within the boundaries of the county.

Section 2. (a) When a law enforcement officer is confronted by circumstances and has reasonable cause for believing that a person within the county is mentally ill and also believes that the person is likely to be of immediate danger to self or others, the law enforcement officer shall contact a community mental health officer. The community mental health officer shall join the law enforcement officer at the scene and location of the person to assess conditions and determine if the person needs the attention, specialized care, and services of a designated mental health facility. If the community mental health officer determines from the conditions, symptoms, and behavior that the person appears to be mentally ill and poses an immediate danger to self or others, the law enforcement officer shall take the person into custody and, together with the community mental health officer, deliver the person directly to the designated mental health facility. At the designated mental health facility, a responsible employee of the facility who is on duty and in charge of admissions to the facility shall be informed by the community mental health officer that the person in custody appears to be mentally ill and is in need of examination and observation.

(b) The employee of the designated mental health facility shall immediately notify an appropriate staff member of the facility who conducts diagnoses and evaluations that an alleged mentally ill person has been received at the facility. The staff member shall immediately perform an initial examination and observation which, coupled with whatever other information concerning the person's behavior as may be available, will allow the staff member to make a determination as to whether to admit the person to the designated mental health facility as a tentatively diagnosed mentally ill patient for further observation and attention. Notwithstanding anything in this act to the contrary, before any person is admitted to a licensed hospital pursuant to this act, the person shall be examined and evaluated by a psychiatrist or other physician licensed to practice medicine and authorized by the hospital medical staff bylaws of the licensed hospital to admit patients for the treatment of mental or emotional illnesses. All admissions to a licensed hospital authorized under this act shall be made only in conformity with established policies, procedures, and the medical staff bylaws of the licensed hospital to which the person is admitted. No provision of this act shall be construed to authorize or permit any person not licensed to practice medicine to perform any act or render any service which constitutes the practice of medicine.

(c) Upon a determination by the staff member that the person does not require admission to the designated mental health facility, the staff member shall so advise the community mental health officer. The community mental health officer shall promptly communicate this information to the law enforcement officer who shall cause the person to be released from the designated mental health facility. The law enforcement officer shall then release the person unless the law enforcement officer has some legal cause for detaining the person other than the person's mental condition. After the person is released, and, if so requested by the person, the law enforcement officer shall deliver the person to the person's residence or other place of abode if it is within the county.

(d) Upon a determination by the staff member that the alleged mentally ill person should be admitted to the designated mental health facility, the staff member shall proceed with admission of the person to the facility. The staff member shall also advise the community mental health officer who shall promptly communicate this information to the law enforcement officer. The community mental health officer shall effectuate the filing of a petition for commitment with the probate court on the person by parties in interest. If no one comes forward to timely file the petition, the community mental health officer shall file the petition in his or her official capacity no later than the second business day following the date of admission.

(e) No later than the next business day following the date of admission, the staff member shall notify the judge of probate, or the probate clerk of the county, of the admission to the designated mental health facility of the alleged mentally ill person. The judge of probate or the probate clerk shall arrange a probable cause hearing to determine if the detention of the alleged mentally ill person is based upon probable cause to believe that confinement is necessary under constitutionally proper standards for commitment or alternate modes of treatment and if the detention should continue until a final hearing on the merits can be held. In the case where a community mental health officer has acted in helping gain the admission of the alleged mentally ill person to a designated mental health facility for initial examination and observation, the judge of probate shall interview the

alleged mentally ill person pursuant to this section no later than the fifth business day next after admission to the designated mental health facility or hospital.

(f) Prior to the probable cause hearing the probate court shall furnish adequate notice informing the person, or his or her counsel, of the time and place of the hearing and of the factual grounds upon which the proposed commitment is predicated and the reasons for the necessity of confinement. The probate court shall require that the alleged mentally ill person be represented by counsel at the hearing, which counsel shall be appointed by the court if necessary. The probate court shall require the presence of the alleged mentally ill person at the hearing unless his or her presence is waived by counsel and approved by the court after an adversary hearing at the conclusion of which the court judicially finds and determines that the person is so mentally or physically ill as to be incapable of attending the probable cause hearing. In no event may detention in the absence of a petition for commitment and a probable cause hearing exceed seven days from the date of the initial confinement under this act. If the court finds and determines that there is no probable cause to detain the person, the court shall immediately cause the person to be discharged and released from the designated mental health facility. Notwithstanding the foregoing, if criminal charges have been placed against the individual and the health care facility has been so notified by an appropriate law enforcement officer, the designated mental health facility shall release the person into the custody of the appropriate law enforcement officer.

(g) If the court determines there is probable cause to detain the person pending a full hearing on the need for commitment or some alternate mode of treatment, the court shall issue a mittimus or commitment of the person to the designated mental health facility until the proceedings may be held in accordance with law. Notwithstanding the foregoing, the proceedings shall be held within a reasonable time following initial detention, but in no event sooner than will permit adequate preparation of the case by counsel, or later than 30 days from the date of the initial detention.

Section 3. This act shall not be applicable to any county unless and until the judge of probate with the approval of the county commission of that particular county makes a finding that there exists in the county provisions for implementation of the community mental health officer program and the necessary facilities to detain persons pursuant to this act. In that event, the judge of probate shall open a case under a docket number and enter therein findings upon the records of the court which shall also expressly state the intention thereby to invoke this act. Notification and a copy of the court's findings and statement shall be served on all designated mental health facilities located within the county, all law enforcement agencies within the county, the Commissioner of the State Department of Mental Health and Mental Retardation, the State Attorney General, the Secretary of State, the Governor of the State of Alabama, and any other persons deemed appropriate by the judge of probate. In the event of changed circumstances, the judge of probate may terminate the procedures set forth in Section 2, and shall make findings accordingly and serve the parties named herein and others previously notified.

Section 4. No county shall be required to pay costs associated with the temporary confinement or commitment of a person to a designated mental health facility, including, but not limited to, the cost of housing and treatment. All costs

associated with a probable cause hearing, including cost of counsel, shall be paid by the State General Fund upon order of the judge of probate; except, that if the petition is denied and the petitioner is not indigent and is not a law enforcement officer or other public official acting within the line and scope of his or her duties, all costs may be taxed against the petitioner, or if the petition is granted and the person sought to be committed is not indigent, the judge of probate may order all costs paid from the estate of the person committed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

REPORT OF THE COMMITTEE ON CONFERENCE ADOPTED

On motion of Representative Freeman, the House concurred in and adopted the Report of the Committee on Conference on the disagreement of the two Houses on the Senate amendment to the bill, H. 241, said report being set out in the foregoing Report of the Committee on Conference.

Yeas 89; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Clark (W), Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Newton (C), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, Williams, Willis and Zoghby.

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SPECIAL ORDER CALENDAR RESUMED

And the bill:

S. 431. To provide that a person requesting medical records shall pay certain costs for reproduction and delivery of the medical records, and pay for the medical records at delivery.

was taken up.

MOTION TO ADJOURN LOST

The motion offered by Representative Payne that the House adjourn until 10:00 o'clock a.m., Monday, April 25, 1994, was lost.

**REGULAR SESSION
27th Day**

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Yeas 27; Nays 51.

Yea:

Representatives Biddle, Black (L), Black (M), Bowling, Cagle, Cullins, Drake, Goodwin, Haney, Higginbotham, Hogan, Holley, Holmes, Laird, Lindsey, Mikell, Newton (C), Payne, Perdue, Poole, Powell, Sanderford, Smith (R), Starkey, Thomas, Turnham and Williams.

-27

Nay:

Mr. Speaker, Anderson, Beasley, Blakeney, Box, Bryant, Burke, Butler, Carns, Carothers, Clark (W), Collins, Cosby, Crow, Curry, Flowers, Freeman, Fuller, Gaines, Gaston, Gullatt, Hall (A), Hall (L), Hammett, Harper, Hawkins, Haynes, Hilliard, Johnson, Knight (J), Kvalheim, Letson, Mathis, McDaniel, McDowell, McKee, McMillan, Melton, Millican, Morrow, Page, Parker (P), Penry, Rockhold, Sanderson, Smith (C), Spratt, Turner, Warren, Willis and Zoghby.

-51

S. 431 RESUMED

The question was then on the passage of the bill, S. 431.

MOTION TO ADJOURN LOST

The motion offered by Representative Payne that the House adjourn until 10:00 o'clock a.m., Monday, April 25, 1994, was lost.

Yeas 33; Nays 48.

Yea:

Representatives Biddle, Black (L), Black (M), Bowling, Buskey, Butler, Cagle, Clark (W), Clay, Cullins, Drake, Goodwin, Hall (L), Haney, Hawkins, Higginbotham, Hill, Hogan, Holley, Letson, Lindsey, Mikell, Parker (T), Payne, Perdue, Poole, Powell, Rogers (F), Sanderford, Smith (R), Starkey, Thomas and Turnham.

-33

Nay:

Mr. Speaker, Anderson, Beasley, Box, Bryant, Campbell, Carns, Carothers, Collins, Cosby, Crow, Curry, Dolbare, Flowers, Freeman, Fuller, Gaines, Gaston, Gullatt, Hall (A), Hammett, Harper, Haynes, Hilliard, Johnson, Knight (A), Knight (J), Kvalheim, McDaniel, McDowell, McKee, McMillan, Millican, Newton (C), Page, Parker (P), Penry, Rockhold, Sanderson, Smith (C), Spratt, Turner, Venable, Warren, White, Williams, Willis and Zoghby.

-48

S. 431 RESUMED**MOTION IN WRITING OFFERED**

Representative Haynes offered the following Motion in Writing relating to the bill, S. 431:

I move the previous question.

MOTION IN WRITING LOST

And the Motion in Writing was lost.

Yeas 27; Nays 37.

Yea:

Representatives Beasley, Box, Carothers, Crow, Freeman, Gaston, Hall (A), Hall (L), Harper, Haynes, Hilliard, Johnson, Kvalheim, McDaniel, McDowell, McMillan, Newton (C), Page, Parker (P), Penry, Powell, Rockhold, Sanderson, Spratt, Turner, White and Zoghby.

-27

Nay:

Representatives Anderson, Barnes, Biddle, Bowling, Bryant, Buskey, Cagle, Carns, Clay, Curry, Drake, Fuller, Gaines, Gullatt, Haney, Hawkins, Higginbotham, Hogan, Holley, Knight (A), Laird, Letson, McClain, McKee, Mikell, Payne, Poole, Rogers (F), Sanderford, Smith (C), Smith (R), Starkey, Thomas, Turnham, Venable, Warren and Williams.

-37

MOTION TO RECESS LOST

The motion offered by Representative Payne that the House recess until 8:30 o'clock p.m. was lost.

Yeas 19; Nays 58.

Yea:

Representatives Beasley, Blakeney, Carothers, Clay, Cosby, Curry, Dolbare, Gaines, Knight (J), Laird, McKee, McMillan, Perdue, Petelos, Poole, Sanderford, Sanderson, Smith (R) and Turner.

-19

Nay:

Mr. Speaker, Anderson, Barnes, Biddle, Black (L), Bowling, Box, Bryant, Buskey, Butler, Carns, Clark (W), Collins, Crow, Drake, Flowers, Freeman, Fuller,

**REGULAR SESSION
27th Day**

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Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hammett, Haney, Hawkins, Haynes, Hill, Hilliard, Hogan, Holley, Holmes, Johnson, Knight (A), Kvalheim, Letson, Lindsey, McDaniel, Mikell, Newton (C), Page, Parker (T), Payne, Penry, Powell, Rockhold, Rogers (F), Smith (C), Spratt, Starkey, Thomas, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-58

MOTION TO RECESS LOST

The motion offered by Representative Gaines that the House recess until 7:45 o'clock p.m. was lost.

Yeas 15; Nays 61.

Yea:

Representatives Bowling, Clay, Cosby, Curry, Gaines, Hooper, Knight (J), Laird, McKee, McMillan, Petelos, Poole, Sanderson, Smith (R) and Turner.

-15

Nay:

Mr. Speaker, Anderson, Barnes, Beasley, Black (L), Box, Bryant, Buskey, Butler, Cagle, Carns, Carothers, Clark (W), Collins, Crow, Dolbare, Drake, Flowers, Freeman, Fuller, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hammett, Haney, Harper, Hawkins, Haynes, Hill, Hilliard, Hogan, Holley, Johnson, Knight (A), Kvalheim, Letson, Lindsey, McDaniel, Mikell, Newton (C), Page, Parker (P), Payne, Penry, Powell, Rockhold, Rogers (F), Sanderford, Smith (C), Spratt, Starkey, Thomas, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-61

S. 431 RESUMED

The question was then on the passage of the bill, S. 431.

MOTION TO ADJOURN LOST

The motion offered by Representative Holley that the House adjourn until 10:00 o'clock a.m., Monday, April 25, 1994, was lost.

Yeas 33; Nays 45.

Yea:

Representatives Barnes, Biddle, Black (M), Buskey, Cagle, Clark (W), Clay, Cullins, Curry, Goodwin, Hall (L), Hamilton, Haney, Hawkins, Hill, Hogan, Holley, Laird, Lindsey, McClain, Mikell, Newton (C), Parker (T), Payne, Perdue, Powell, Rich, Rogers (J), Sanderford, Smith (R), Starkey, Thomas and Turnham.

-33

Nay:

Mr. Speaker, Anderson, Beasley, Blakeney, Bowling, Box, Bryant, Burke, Carns, Carothers, Collins, Cosby, Crow, Dolbare, Freeman, Fuller, Gaines, Gaston, Gullatt, Hall (A), Hammett, Harper, Haynes, Hilliard, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Letson, McDaniel, McMillan, Page, Parker (P), Petelos, Poole, Rockhold, Sanderson, Smith (C), Spratt, Turner, Venable, Warren, Willis and Zoghby.

-45

S. 431 RESUMED

MOTION IN WRITING FILED

Representative Sanderson filed the following Motion in Writing relating to the bill, S. 431:

I move the previous question.

MOTION IN WRITING ADOPTED

And the Motion in Writing was adopted.

Yeas 40; Nays 28.

Yea:

Representatives Beasley, Black (M), Bowling, Box, Burke, Butler, Carothers, Collins, Cosby, Cullins, Freeman, Gaines, Gaston, Gullatt, Hall (A), Hall (L), Harper, Hawkins, Haynes, Hilliard, Hogan, Holmes, Hooper, Johnson, Knight (J), Kvalheim, Lindsey, Mathis, McKee, Newton (C), Page, Parker (P), Penry, Rockhold, Sanderson, Thomas, Warren, Williams, Willis and Zoghby.

-40

Nay:

Representatives Anderson, Barnes, Biddle, Blakeney, Bryant, Buskey, Carns, Clark (W), Clay, Curry, Fuller, Haney, Higginbotham, Holley, Knight (A), Laird, Letson, McMillan, Mikell, Payne, Petelos, Poole, Powell, Rogers (F), Sanderford, Smith (C), Smith (R) and Turnham.

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27th Day

And the bill, S. 431, was read a third time at length and passed.

Yeas 87; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Clark (W), Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Mikell, Millican, Newton (C), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-87

And the bill:

S. 329. To amend Sections 9-12-54.1, 9-12-54.2, 9-12-54.3, 9-12-54.4, 9-12-54.5, 9-12-54.6, 9-12-54.7, and 9-12-93 by regulating further bait shrimpers, as to poundage, location of shrimp catches, and licensing restrictions.

was taken up.

SUBSTITUTE OFFERED

Representative Harper offered the following substitute to the bill, S. 329:

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 9-12-54.1, 9-12-54.2, 9-12-54.3, 9-12-54.4, 9-12-54.5, 9-12-54.6, 9-12-54.7, and 9-12-93 by regulating further bait shrimpers, as to poundage, location of shrimp catches, and licensing restrictions, and prescribing certain criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 9-12-54.1, 9-12-54.2, 9-12-54.3, 9-12-54.4, 9-12-54.5, 9-12-54.6, 9-12-54.7, and 9-12-93, Code of Alabama 1975, are amended to read as follows:

"§9-12-54.1.

"Before any person, firm, or corporation engages in the taking, catching, transporting, or selling of live saltwater shrimp or other live bait for commercial bait purposes, he or she must shall have in his or her possession a live bait shrimp

dealers license. Said The license shall be sold and issued by the department of conservation and natural resources to any live bait shrimp dealer upon payment of a fee of \$50.00 fifty dollars (\$50), which shall entitle him the person to sell live shrimp or other live bait from a place of business and operate one boat or and truck, or \$100.00 one hundred dollars (\$100) for the right to sell live shrimp or other live bait from a place of business and operate two boats or and two trucks. Detailed records of transactions involving shrimp shall be maintained at the place of business by seafood dealer licensees and by live bait shrimp dealers who are party to the transaction. The records shall include the name and address of the seller, the date and time of purchase, the amount of purchase (by poundage of purchase), price paid per pound, and shrimp size. Transactions on sales of purchased shrimp shall be totaled daily. These records shall be immediately available for inspection by the Department of Conservation and Natural Resources and shall be maintained for a minimum of 30 days. If the licensee or dealer fails to keep these records, the licensee or dealer is subject to the penalties set forth in Section 9-12-54.7. If the licensee or dealer is found to have kept fraudulent records, the licensee or dealer shall be guilty of a Class A misdemeanor. The department of conservation and natural resources shall not issue a live bait shrimp dealers license until the applicant has furnished to the commissioner of conservation and natural resources such information as the commissioner may prescribe showing that the applicant has the necessary equipment and facilities to properly keep shrimp alive for sale as bait. The commissioner, before the issuance of a license, shall cause an inspection of the applicant's gear and equipment, place of business, and truck, or vessel of the applicant to ascertain if same they meet the requirements for keeping bait shrimp alive. The live bait shrimp dealers license may be revoked at any time during the issuing year that an agent of the commissioner of conservation and natural resources finds that equipment, gear, truck, or vessel of the licensee no longer meets the minimum requirements for keeping shrimp alive for sale as bait. Any person who sells, exchanges, barter, or attempts to sell, barter, exchange, or otherwise dispose of live shrimp or other live bait, shall be in violation of sections 9-12-54.1 through 9-12-54.7 unless he or she first purchases the annual live bait shrimp dealers license."

"§9-12-54.2.

"All licenses required herein shall expire on the 30th day of September of each year and shall be purchased between October 1 and December 31 of each year. All receipts shall be deposited to the marine resources fund. Nonresidents shall pay a license fee double that of citizens of the state of Alabama equal to that charged Alabama residents to conduct the same activity in the state of residence of the applicant and in no event less than double that of citizens of the State of Alabama."

"§9-12-54.3.

"Each live bait licensee shall furnish the marine resources division of the department of conservation and natural resources with the Alabama marine police registration number of the boat or boats and the tag number of the truck or trucks he or she designates to use as a licensee hereunder. Boats licensed for live bait may not be licensed as commercial shrimping vessels in that license year. A live bait licensee hereunder shall not substitute another boat or truck unless he gives a two-week written notice to without first having the boat or truck inspected and approved by the marine resources division of the department of conservation and

natural resources of same. Each bait catcher boat shall contain the words 'live bait' in letters at least six inches high on the port and starboard sides."

"§9-12-54.4.

"Licensed live bait catcher boats may take or catch, or attempt to take or catch, bait shrimp of any size in any waters of the state south of the mouth of the Mobile river and the Battleship parkway not permanently closed to commercial shrimping. Licensed live bait catchers may take or catch, or attempt to take or catch, shrimp from 4:00 o'clock a.m. until 10:00 o'clock p.m. in areas closed to commercial shrimping. Such The shrimp shall not be taken with any seine or trawl having a width greater than 16 feet as measured at the cork line or main top line when any area, other than areas permanently closed to shrimping by statute or regulation, is closed to commercial shrimping and in designated exclusive bait areas. Shrimp can be sold only when alive or with heads attached. No holder of a live bait shrimp dealers license shall have on his boat more than 15 pounds of dead shrimp. Dead shrimp must be packaged and sold with head attached in lots of no more than one pound. No holder of a live bait shrimp license shall have in his or her possession pursuant to such license more than one standard shrimp basket (measuring 17 inches in diameter at the top, 13.5 inches at the bottom and 14 inches in height) of shrimp live or dead per boat or truck and no more than three standard shrimp baskets per place of business and such shrimp shall be sold only as bait."

"§9-12-54.5.

"Persons without a live bait shrimp dealers license can use trawls of 16 feet or less to catch or attempt to catch saltwater shrimp for bait or noncommercial purposes not to exceed 25 pounds per person per day only at the same time and in the waters open to commercial shrimping. Persons with a recreational boat shrimping license may use a trawl having a width of 16 feet or less as measured at the cork line to catch, or attempt to catch, saltwater shrimp for bait or noncommercial purposes not to exceed five gallons of shrimp per person per day only at the same time and in the waters open to commercial shrimping."

"§9-12-54.6.

"All rivers, bayous, and creeks of the state are permanently closed to the taking of saltwater shrimp for any purpose. Wolf Bay, that area encompassing the water within the boundary from the south shore of Wolf Bay northward to Beacon #86 on the north side of the Gulf Intracoastal Waterway then westward along the north side of the Gulf Intracoastal Waterway to Beacon #94 then south across the Gulf Intracoastal Waterway to the south shore of Wolf Bay; Oyster Bay, that area encompassing the waters of Oyster Bay except those waters north of the Gulf Intracoastal Waterway; that area encompassing those waters in the mouth of the Blakely River between the I-10 bridge and the Highway 90 (old causeway) bridge; Terry Cove (Baldwin county); and Arlington Channel; East Fowl River from Beacon 5 and 6 to the mouth of the river; Bayou La Batre Channel from Bayou La Batre Channel B.C. Beacon to the mouth of Bayou La Batre; and Dauphin Island Bay (Mobile county) shall be designated as exclusive bait shrimping areas and shall remain open to licensed and ~~unlicensed~~ recreational live bait shrimping year around during the hours of 4:00 o'clock a.m. until 10:00 o'clock p.m. provided that said the shrimping activity complies with all other statutes contained in this chapter

and regulations promulgated by the commissioner of the department of conservation and natural resources concerning said shrimping activity."

"§9-12-54.7.

"Violation of any of the provisions hereof by any person or persons shall be an offense against the state of Alabama, and violators shall, upon conviction, be fined not less than ~~\$100.00~~ two hundred fifty dollars (\$250) nor more than ~~\$500.00~~ five hundred dollars (\$500) for the first offense. For a subsequent offense occurring within 12 months of the first offense, the violator shall, upon conviction, be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) and the live bait dealer's license shall be suspended by the Department of Conservation and Natural Resources for six months. ~~Licenses of live bait dealers shall be revoked forthwith upon conviction of violations of sections 9-12-54.1 through 9-12-54.6. The department of conservation and natural resources shall not issue another license to such licensee, truck, boat, or place of business for a period of six months after such conviction.~~"

"§9-12-93.

"It shall be unlawful for any person to use any boat for the purpose of drawing a seine or trawl used in catching shrimp or hauling or carrying shrimp without first having secured an annual license due and payable on or before the opening date of the season as set by the commissioner of conservation and natural resources in each and every year as follows: For each and every boat owned by a resident of this state, there shall be an annual license fee of ~~\$50.00~~ fifty dollars (\$50) for commercial boats under 30 feet in length, ~~\$75.00~~ seventy-five dollars (\$75) for commercial boats from 30 to 45 feet in length, ~~\$100.00~~ one hundred dollars (\$100) on commercial boats over 45 feet in length, and ~~\$15.00~~ fifteen dollars (\$15) on all recreational boats regardless of length. Recreational boats can use trawls of 16 feet or less as measured at the cork line or main top line to catch, or attempt to catch, shrimp for bait or noncommercial purposes, not to exceed ~~25 pounds~~ five gallons per person aboard per day only at the same time and in waters open to commercial shrimping. Nonresidents shall pay a license fee equal to that paid by Alabama residents or boats to shrimp in their state but no less than double the amount provided for above, except where ~~such~~ a nonresident is a resident of a state which has a reciprocal fishing agreement with the state of Alabama where ~~such~~ the state does not itself charge residents of Alabama license fees in excess of those charged residents of that state. All proceeds from licenses under this section shall be placed to the credit of the marine resources fund."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

MOTION IN WRITING OFFERED

Representative Haynes offered the following Motion in Writing relating to the bill, S. 329:

I move the previous question.

MOTION IN WRITING LOST

And the Motion in Writing was lost.

Yeas 5; Nays 65.

Yea:

Representatives Cagle, Gaines, Haney, Holley and Sanderford.

- 5

Nay:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Carns, Carothers, Clark (W), Collins, Cosby, Curry, Dolbare, Flowers, Freeman, Fuller, Gaston, Goodwin, Gullatt, Hall (A), Hammett, Hawkins, Haynes, Higginbotham, Hilliard, Holladay, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Letson, Lindsey, Mathis, McClain, McKee, McMillan, Mikell, Millican, Parker (P), Payne, Penry, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderson, Smith (C), Spratt, Starkey, Thomas, Turner, Venable, Warren, Williams, Willis and Zoghby.

-65

SUBSTITUTE ADOPTED

And the substitute offered by Representative Harper was adopted.

Yeas 80; Nays 1.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Cagle, Campbell, Carns, Carothers, Clark (W), Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Freeman, Gaines, Gaston, Gullatt, Hall (A), Hall (L), Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Mikell, Millican, Newton (C), Newton (D), Parker (P), Parker (T), Penry, Perdue, Poole, Powell, Rockhold, Rogers (F), Sanderford, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Venable, Warren, White, Williams, Willis and Zoghby.

-80

Nay:

Representative Holley.

- 1

And the bill, S. 329, as amended, was read a third time at length and passed.

Yeas 87; Nays 1.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Cagle, Campbell, Carns, Carothers, Clark (W), Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Freeman, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Mikell, Millican, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-87

Nay:

Representative Holley.

- 1

And the bill:

S. 414. Relating to protective services for abused, infirm, incapacitated, neglected, exploited, sexually abused, or emotionally abused; to amend Sections 38-9-2, 38-9-6, 38-9-7, and 38-9-8, Code of Alabama 1975, to require caregivers to report suspected cases of abuse, neglect, exploitation, sexual abuse, and emotional abuse; to require investigations within seven days following an oral report of abuse, neglect, exploitation, sexual abuse, and emotional abuse; and to relieve the county departments of human resources from the requirement of investigating reports from certain penal and mental institutions.

was read a third time at length and passed.

Yeas 87; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Cagle, Carns, Carothers, Clark (W), Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Mikell, Millican, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-87

MOTION TO SUSPEND RULES ADOPTED

On motion of Representative Harper, the rules were suspended in order to take up out of order the bill, S. 590.

Yeas 84; Nays 1.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Box, Bryant, Burke, Buskey, Cagle, Campbell, Carns, Carothers, Clark (W), Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Freeman, Fuller, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Mikell, Millican, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderford, Smith (C), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-84

Nay:

Representative Gaines.

- 1

And the bill:

S. 590. (With Substitute): Amending Sections 36-27-23 and 36-27-25, Code of Alabama 1975, to provide further for the Board of Control and the management of the Employees' Retirement System.

was taken up.

The question was then on the adoption of the substitute reported by the Standing Committee on Ways and Means, said committee substitute being as follows:

**A BILL
TO BE ENTITLED
AN ACT**

Amending Sections 36-27-23 and 36-27-25, Code of Alabama 1975, to provide further for the Board of Control and the management of the Employees' Retirement System.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. §36-27-23, Code of Alabama 1975, is hereby amended to read as follows:

"§36-27-23. Board of control; medical board, actuary.

"(a) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this article are hereby vested in a board of trustees which shall be known as the board of control.

"(b) The board shall consist of 13 trustees as follows:

"(1) The governor, ex officio, who shall be chairman.

"(2) The state treasurer, ex officio.

"(3) The state personnel director, ex officio.

"(4) The director of finance, ex officio.

"(5) Three members of the retirement system, to be appointed by the governor, no two of whom shall be from the same department of the state government nor from any department of which an ex officio trustee is the head. The state employees appointed pursuant to this section shall be merit system employees with at least ten years of creditable state service and shall not be a department head or an assistant department head. The terms of office of the three members appointed by the governor shall begin immediately after they have qualified and taken the oath of office.

"(6) Two members of the state employees' retirement system who shall be vested in the system and elected by a majority vote of the participating full-time state employees who are members of the said system. For their original terms, one shall serve for a two-year term and one shall serve for a three-year term. Thereafter, their successors each shall serve for a four-year term.

"a. During the month of July 1980, employees desiring to serve shall file with the state comptroller notice of their intent to run for the position. The comptroller shall cause to be prepared ballots for distribution to all state employees with their paychecks during the first pay period of August 1980. Each state payroll

clerk within one week shall collect the executed ballots and return them to the comptrollers who shall forthwith tabulate the ballots and announce the results. A printout of the tabulation along with the ballots shall within three days be delivered by the comptroller to the secretary of state, who shall preserve the ballots and the printout for three months."

b. Within 10 days of the effective date of the act adding this provision, the governor shall appoint new board members in accordance with the requirements added by this Act.

"b. c. At the expiration of terms of office of the respective original trustees elected under this subdivision (6) and every four years thereafter, their successors shall be elected in the same manner as provided by paragraph a. of this subdivision.

"(7) One member from the ranks of retired state employees and one member from the ranks of retired employees of a city, a county, or a public agency each of whom is an active beneficiary of the system shall be elected by a majority vote of the participating retired beneficiaries of the said system. The retired state employee member shall serve for a four-year term beginning October 1, 1984, and the member who is a retired employee of a city, a county or a public agency shall serve for a three-year term, beginning October 1, 1984, provided after the expiration date of the initial terms provided in this subdivision each term shall be for a period of three years.

"The retired members shall be elected in a statewide ballot conducted by the secretary-treasurer under rules promulgated by the board of control. The board of directors of the Alabama retired state employees association shall submit no more than two nominations for each retired member position. The board of control shall determine the procedure for selecting additional candidates. Such The ballots shall be conducted prior to October 1, 1984 and each applicable year thereafter in order that the trustees can take office by October 1, next following such election.

"(8) Two members of the retirement system who shall be employed by an employer participating pursuant to section 36-27-6, who shall be elected by a majority vote of the full-time employees of employers participating pursuant to section 36-27-6, and who are members of said the system. For their original terms one shall serve a three-year term and one shall serve a four-year term. Thereafter, their successors each shall serve for a four-year term.

"The election shall be conducted by the secretary-treasurer through use of a statewide ballot in accordance with rules promulgated by the board of control, which shall include a nomination petition of not less than 50 eligible voters. The election provided herein shall be conducted prior to October 1, 1991 and each applicable year thereafter in order that the trustees can take office October 1, next following such election.

"(c) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled, except that of the trustees elected under subdivision (7) of subsection (b). In that event the vacancy for the unexpired term shall be filled by an appointment by the board of control of the employees' retirement system from a list of three retired

employees furnished him by the board of directors of the Alabama retired state employees' association.

"(d) The trustees shall serve without compensation for their services as trustees, but they shall be reimbursed from the expense fund for all necessary expenses that they may incur through service on the board of control.

"(e) Each trustee shall, within 10 days after his appointment, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the board of control and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the member making it, certified by the officer before whom it is taken and immediately filed in the office of the secretary of state.

"(f) Each trustee shall be entitled to one vote in the board of control. Seven votes in favor of any decision shall be necessary for a decision by the trustees at any meeting of said board.

"(g) Subject to the limitations of this article, the board of control shall, from time to time, establish rules and regulations for the administration of the funds created by this article and for the transaction of its business.

"(h) The board of control, by a majority vote of all ~~its members~~ trustees, shall elect a secretary-treasurer who shall serve as the chief executive officer of the retirement system. The board of control shall engage such actuarial and other special services as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the board, with the exception of clerical employees who shall be employed under the provisions of the Merit System Act, and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board shall approve.

"(i) The board of control shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the system.

"(j) The board of control shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

"(k) The attorney general of the state shall be the legal adviser of the board of control.

"(l) The board of control shall designate a medical board to be composed of three physicians not eligible to participate in the retirement system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this chapter and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for

disability retirement and shall report in writing to the board of control its conclusions and recommendations upon all matters referred to it.

"(m) The board of control shall designate an actuary who shall be the technical adviser of the board of control on matters regarding the operation of the funds created by the provisions of this article and shall perform such other duties as are required in connection therewith.

"(n) Immediately after the establishment of the retirement system the actuary shall make such investigation of the mortality, service and compensation experience of the members of the system as he shall recommend and the board of control shall authorize, and, on the basis of such investigation, he shall recommend for adoption by the board of control such tables and such rates as are required in subsection (o) of this section. The board of control shall adopt tables and certify rates and, as soon as practicable thereafter, the actuary shall make a valuation based on such tables and rates of the assets and liabilities of the funds created by this article.

"(o) In 1948, and at least once in each five-year period thereafter, the actuary shall make an actuarial investigation into mortality, service and compensation experience of the members and beneficiaries of the retirement system and shall make a valuation of the assets and liabilities of the funds of the system and, taking into account the results of such investigation and valuation, the board of control shall adopt for the retirement system such mortality, service and other tables as shall be deemed necessary and certify the rates of contribution payable by the state under the provisions of this article.

"(p) On the basis of such tables as the board of control shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system created by this article.

Section 2. §36-27-25, Code of Alabama 1975, is hereby amended to read as follows:

"§36-27-25. Same -- Management.

"(a) The board of control shall be the trustees of the several funds of the employees' retirement system created by this article as provided in section 36-27-24 and shall have full power to invest and reinvest such funds, through its secretary-treasurer in such classes of bonds, mortgages, common and preferred stocks, shares of investment companies or mutual funds or other investments as the board of control may from time to time approve, subject to all the terms, conditions, limitations and restrictions imposed by the laws of Alabama upon domestic life insurance companies in the making of their investment. Subject to like terms, conditions, limitations and restrictions, the board of control, through its secretary-treasurer, shall have full power to hold, purchase, sell, assign, transfer and dispose of any such investments in which such funds created in section 36-27-24 shall have been invested as well as the proceeds of said investments and any moneys belonging to such funds. No purchase of stocks or other so-called equity securities shall be made for such funds which shall cause the total of such stocks or equity securities held in such funds at any one time to exceed 20 percent of the total book value of all investments held in such funds."

(b) The Governor ex officio, shall be chairperson of the board of control. At the board meeting when the new positions created by the act adding these provisions are sworn into office, the board of control shall elect from its membership a vice-chairperson who shall have at least three years of service experience on the board. The vice-chairperson shall serve a term concurrent with that of the position of investment committee place No. 1.

"(b) (c) The secretary-treasurer shall have the authority and it shall be his duty to carry out the investment policies fixed by the board of control and, pursuant thereto, he shall examine all offers of investments made to such funds, shall initiate inquiries as to available investments therefor, shall review periodically the investment quality and desirability of retention of investments held and shall from time to time make such purchases and sales of investments as he shall deem to be the best interests of such funds and as the investment committee provided for in subsection (c) of this section and as the consultant to the secretary-treasurer, if any, appointed by the board of control under subsection (d) of this section, to the extent of the purpose for which it is appointed, shall approve.

"(e) (d) The board of control shall ~~appoint~~ provide for an investment committee which shall consist of three members of the board, one of whom shall be the director of finance. At the first board meeting held after the effective date of the act adding this provision, two members of the board, who individually have at least three years of service experience on the board, shall be elected to serve on the investment committee in positions designated as places No. 1 and No. 2. The person elected to serve in place No. 1 shall serve for an initial term of one year while the person elected to serve in place No. 2 shall serve for an initial term of two years. Successor terms for both places on the committee shall be for two years and successor candidates for the elected places shall meet the aforementioned board service experience requirement. The investment committee shall consider all investment recommendations made by the secretary-treasurer and shall either approve or disapprove the same. The investment committee may act through the affirmative vote of any two of its members. Approvals may be secured informally in advance but shall in any event be confirmed by written authorization to be attached to the invoice for the transaction.

"(d) (e) The board of control may appoint and employ as consultant to the secretary-treasurer in the purchase, sale and review of investments of said funds, to such extent as the board may designate, a bank having its principal office in the state of Alabama, having capital, surplus and undivided profits of not less than \$3,000,000.00, and having an organized investment department. The bank so appointed shall not sell securities to the retirement system other than U.S. government securities, for which no commission shall be charged.

"(e) (f) The secretary-treasurer shall report to the board of control all purchases and sales of investments made by him pursuant to this section at least once semiannually.

"(f) (g) The board of control shall allow annually regular interest on the mean amount for the preceding year in each of the funds, with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds and shall be credited annually thereto by the board of control from interest and other earnings on the moneys of the retirement system. Any additional amount

required to meet the interest on the funds of the retirement system shall be paid from the pension accumulation fund, and any excess of earnings over such amount required shall be paid to the pension accumulation fund. Regular interest shall mean such percentage rate or rates to be compounded annually as shall be set from time to time by the board of control, such rate or rates to be limited to a minimum of three percent and a maximum of four and three-fourths percent.

"(g) (h) Funds accruing to the annuity savings fund, the annuity reserve fund, the pension accumulation fund and the pension reserve fund shall be certified by the secretary-treasurer for deposit in the state treasury to the credit of the employees' retirement system. All moneys provided in accordance with the provisions of this chapter for administrative expenses shall be certified for deposit in the state treasury to the credit of the employees' retirement system expense fund. All payments from said funds shall be made by the state treasurer on warrants drawn by the state comptroller upon vouchers signed by two persons designated by the board of control. A duly attested copy of the resolution of the board of control designating such persons and bearing on its face specimen signatures of such persons shall be filed with the state comptroller as his authority for drawing warrants upon such voucher.

"(h) (i) Except as otherwise provided in this article, no member of the board of control and no employee of the board shall have any direct interest in the gains or profits of any investment made by the board nor as such receive any pay or emolument for his services. No member or employee of the board of control shall, directly or indirectly, for himself or as an agent in any manner use the same, except to make such current and necessary payments as are authorized by the board, nor shall any member or employee of the board of control become an endorser or surety or in any manner an obligor for moneys loaned to or borrowed from the board."

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

SUBSTITUTE ADOPTED

And the substitute was adopted.

Yeas 89; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Clark (W), Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Mikell, Millican, Newton (C), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R),

Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-89

And the bill, S. 590, as amended, was read a third time at length and passed.

Yeas 89; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Mikell, Millican, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-89

MOTION TO SUSPEND RULES ADOPTED

On motion of Representative Flowers, the rules were suspended in order to take up out of order the bill, S. 375.

Yeas 58; Nays 9.

Yea:

Representatives Barnes, Beasley, Biddle, Black (M), Bowling, Burke, Butler, Cagle, Carns, Carothers, Collins, Cosby, Crow, Cullins, Flowers, Fuller, Gaston, Goodwin, Gullatt, Hammett, Haney, Harper, Hawkins, Haynes, Hill, Hilliard, Hogan, Holladay, Holley, Johnson, Knight (A), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McKee, McMillan, Newton (C), Newton (D), Payne, Perdue, Poole, Rockhold, Rogers (F), Sanderford, Smith (C), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams and Willis.

-58

Nay:

Representatives Buskey, Campbell, Hall (L), Higginbotham, Holmes, Parker (T), Penry, Powell and Smith (R).

-9

And the bill:

S. 375. To provide distinctive motor vehicle license tags or plates for members of the Fraternal Order of Police; providing for the fees for these tags or plates and for the disposition of the net proceeds from the fees; and providing for a delayed effective date.

was read a third time at length and passed.

Yeas 89; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Carns, Carothers, Clark (W), Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Mikell, Millican, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-89

REPORT OF CONFERENCE COMMITTEE

We, the Committee on Conference, appointed to reconcile the differences of the two houses concerning House Bill 200, have met in conference and have agreed to accept the attached substitute which is made a part of this report as is fully set out herein.

SETH M. HAMMETT
TAYLOR HARPER
ALVIN HOLMES

Conferees on the Part of the House

RYAN DEGRAFFENRIED
B. DON HALE
FRED HORN

Conferees on the Part of the Senate

A BILL
TO BE ENTITLED
AN ACT

To make an appropriation for the support and maintenance of the Special Schools for Special Education for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1995, the sum of \$2,726,269, out of the funds in the Alabama Special Educational Trust Fund to be used for the support and maintenance of the Special Schools for Special Education and to be distributed by the State Board of Education as follows:

(a) Butler Activity and Training Center for the Mentally Retarded in Greenville.....	27,151
(b) Hope Haven School in Colbert County.....	36,201
(c) Montgomery Institute of Neurological Development.....	31,676
(d) Marion Bankhead Grant Center.....	61,000
(e) Houston County Board of Education for the Vaughn-Blumberg Center for the Developmentally Disabled.....	54,302
(f) Alice Pigman School.....	113,129
(g) Achievement Center, Opelika.....	10,000
(h) Merle Wallace Purvis Center.....	75,000
(i) McGraw Activity Center.....	160,000
(j) Dallas County Day Care and Training Center.....	44,302
(k) Brierfield Learning Center, Bibb County.....	13,200
(l) Calhoun County Community - "EDUCATION PAR EXCELLENCE".....	110,503
(m) North Talladega County Association for Retarded Citizens, Inc....	27,151
(n) South Talladega County Association for Retarded Citizens, Inc....	27,151
(o) Epic School, Birmingham.....	35,200
(p) ECHO FOUNDATION.....	50,000
(q) Vivian B. Adams School.....	257,595

**REGULAR SESSION
27th Day**

3597

(r) McInnis School of Montgomery.....	397,309
(s) Twenty First Century Youth Leadership Training Project.....	50,000
(t) Alan Cott School.....	93,671
(u) Children's Hands-On Museum in Tuscaloosa.....	140,503
(v) Madison County Opportunities Center.....	45,252
(w) Hope Project, formerly the Madison Park Hope Center.....	57,443
(x) Dee Day School - Cherokee County.....	27,151
(y) McKinney Learning Center.....	27,151
(z) Jackson-DeKalb County Special School for the Retarded at Northeast Junior College.....	60,000
(aa) Valley Haven School.....	57,581
(bb) Russellville City School for Multi-Handicapped Children.....	36,201
(cc) North Alabama Center for Educational Excellence, formerly North Alabama Education Opportunities Center.....	4,525
(dd) Randolph County Learning Center.....	21,721
(ee) Quest for Excellence.....	100,000
(ff) Louise Smith Development Center.....	20,000
(gg) Jackson County ARC Achievement Center.....	50,000
(hh) Mobile ARC.....	87,000
(ii) Lee Scan - of Lee County.....	15,200
(jj) Governor's School-Samford University.....	25,000
(kk) Cullman County Center for the Developmentally Disabled.....	150,000
(ll) ARC of Blount County.....	25,000
(mm) Clark Smeltzer Training Center of Gadsden.....	25,000
(nn) Adam Bishop Center at Northwest Alabama Child Care Services.....	27,000
(oo) Southern Normal School.....	50,000

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 4. This act shall become effective on October 1, 1994.

**MOTION TO CONCUR AND ADOPT
REPORT OF THE COMMITTEE ON CONFERENCE OFFERED**

Representative Harper offered the motion that the House concur in and adopt the Report of the Committee on Conference on the disagreement of the two Houses on the Senate amendment to the bill, H. 200, said report being set out in the foregoing Report of the Committee on Conference.

SUBSTITUTE MOTION TO NON-CONCUR TABLED

On motion of Representative Harper, the substitute motion offered by Representative Holley that the House non-concur in the Report of the Committee on Conference on the disagreement of the two Houses on the Senate amendment to the bill, H. 200, was tabled.

Yeas 73; Nays 11.

Yea:

Mr. Speaker, Barnes, Beasley, Biddle, Black (L), Bowling, Bryant, Burke, Buskey, Butler, Cagle, Carns, Carothers, Clark (W), Collins, Cosby, Crow, Cullins, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Hall (L), Hammett, Haney, Harper, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Lindsey, Mathis, McClain, McDaniel, McKee, McMillan, Mikell, Millican, Newton (C), Page, Parker (P), Payne, Penry, Petelos, Poole, Rockhold, Rogers (F), Sanderford, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-73

Nay:

Representatives Anderson, Black (M), Box, Campbell, Dolbare, Gullatt, Hall (A), Holley, Letson, McDowell and Powell.

-11

MOTION TO ADJOURN LOST

The motion offered by Representative Laird that the House adjourn until 10:00 o'clock a.m., Monday, April 25, 1994, was lost.

Yeas 19; Nays 66.

Yea:

Representatives Black (L), Buskey, Cagle, Clark (W), Cullins, Curry, Dolbare, Hall (L), Higginbotham, Hill, Holley, Laird, Letson, Parker (T), Payne, Perdue, Powell, Sanderford and Turnham.

-19

Nay:

Mr. Speaker, Anderson, Beasley, Biddle, Black (M), Blakeney, Bowling, Box, Bryant, Burke, Butler, Campbell, Carns, Carothers, Collins, Cosby, Crow, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hammett, Harper, Hawkins, Haynes, Hilliard, Hogan, Holladay, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Layson, Lindsey, Mathis, McDaniel, McDowell, McKee, McMillan, Mikell, Millican, Newton (C), Page, Parker (P), Penry, Petelos, Rockhold, Rogers (F), Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Venable, Warren, White, Williams, Willis and Zoghby.

-66

H. 200 RESUMED

REPORT OF THE COMMITTEE ON CONFERENCE ADOPTED

The question was then on the motion offered by Representative Harper that the House concur in and adopt the Report of the Committee on Conference on the disagreement of the two Houses on the Senate amendment to the bill, H. 200, and the motion was adopted.

Yeas 64; Nays 22.

Yea:

Mr. Speaker, Barnes, Beasley, Biddle, Black (L), Black (M), Bowling, Bryant, Burke, Buskey, Butler, Carns, Carothers, Collins, Cosby, Crow, Cullins, Flowers, Freeman, Fuller, Gaines, Gaston, Goodwin, Hammett, Haney, Harper, Hawkins, Haynes, Hogan, Holladay, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McKee, McMillan, Mikell, Millican, Newton (C), Page, Payne, Penry, Petelos, Poole, Sanderford, Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams and Willis.

-64

Nay:

Representatives Anderson, Blakeney, Box, Cagle, Campbell, Dolbare, Gullatt, Hall (A), Hall (L), Higginbotham, Hill, Hilliard, Holley, McDowell, Parker (P), Perdue, Powell, Rockhold, Rogers (F), Sanderson, Smith (C) and Zoghby.

-22

MOTION TO ADJOURN LOST

The motion offered by Representative Letson that the House adjourn until 10:00 o'clock a.m., Monday, April 25, 1994, was lost.

Yeas 42; Nays 43.

Yea:

Representatives Anderson, Barnes, Black (L), Bowling, Buskey, Cagle, Clark (W), Clay, Collins, Crow, Cullins, Fuller, Goodwin, Hall (L), Hammett, Haney, Higginbotham, Hill, Hogan, Holladay, Holley, Laird, Layson, Letson, Lindsey, McClain, Mikell, Millican, Parker (T), Payne, Penry, Perdue, Poole, Powell, Rogers (F), Sanderford, Smith (R), Starkey, Thomas, Turnham, Williams and Willis.

-42

Nay:

Mr. Speaker, Beasley, Biddle, Blakeney, Box, Bryant, Burke, Campbell, Carns, Carothers, Cosby, Curry, Dolbare, Freeman, Gaines, Gaston, Hall (A), Harper, Hawkins, Haynes, Hilliard, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Mathis, McDaniel, McDowell, McKee, McMillan, Newton (C), Page, Parker (P), Petelos, Rockhold, Sanderson, Smith (C), Spratt, Turner, Venable, Warren and Zoghby.

-43

SPECIAL ORDER CALENDAR RESUMED

And the bill:

S. 37. To amend Sections 32-5A-171 and 32-5A-173, Code of Alabama 1975, as amended, which relate to maximum speed limits so as to provide that the maximum speed limit on unpaved roads shall be 25 miles per hour except as otherwise provided.

was taken up.

SUBSTITUTE OFFERED

Representative Holley offered the following substitute to the bill, S. 37:

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 32-5A-171 and 32-5A-173, Code of Alabama 1975, as amended, which relate to maximum speed limits so as to provide that the maximum speed limit on unpaved roads shall be 35 miles per hour except as otherwise provided.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 32-5A-171, Code of Alabama 1975, is hereby amended to read as follows:

"§32-5A-171.

"Except when a special hazard exists that requires lower speed for compliance with section 32-5A-170, the limits hereinafter specified or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such the maximum limits.

"(1) No person shall operate a vehicle in excess of 30 miles per hour in any urban district.

"(2) No person shall operate a motor vehicle in excess of 35 miles per hour on any unpaved road. For purposes of this chapter the term 'unpaved road' shall mean any highway under the jurisdiction of any county, the surface of which consists of natural earth, mixed soil, stabilized soil, aggregate, crushed sea shells, or similar materials without the use of asphalt, cement, or similar binders.

"(3) (2) No person shall operate a motor vehicle on the highways in this state, other than interstate highways, at a speed in excess of 55 miles per hour at any time unless a different maximum rate of speed is authorized by the governor under authority granted in subdivision (5) (6).

"(4) (3) No person shall operate a motor vehicle, on an interstate highway within the state of Alabama, at a speed in excess of 55 miles per hour in urban areas of 50,000 population or more or in excess of 65 miles per hour outside such urban areas unless a different maximum rate of speed is permitted or allowed by the federal highway administration, or unless a different maximum rate of speed is authorized by the governor under authority granted in subdivision (5) (6) hereof.

"(5) (4) Notwithstanding any provisions of this section to the contrary, no person shall operate a passenger vehicle, motor truck, or passenger bus which carries or transports explosives or flammable liquids, as defined in section 32-1-1.1, or hazardous wastes, as defined in section 22-30-3(5), in this state unless the vehicle, truck, or bus prominently displays a current decal, plate, or placard which is required by the rules or regulations of the DOT or the PSC which

indicates or warns that the vehicle, truck, or bus is carrying or transporting ~~such~~ the vehicle, truck, or bus at a rate of speed greater than 55 miles per hour at any time unless a different maximum rate of speed is authorized by the governor under authority granted in subdivision ~~(5)~~ (6).

"~~(6)~~ (5) The governor is hereby specifically authorized to prescribe the maximum rate of speed whenever a different rate of speed is required by federal law in order for Alabama to receive federal funds for highway maintenance and construction.

"~~(7)~~ (6) The maximum speed limits set forth in this section may be altered as authorized in sections 32-5A-172 and 32-5A-173."

Section 2. Section 32-5A-173, Code of Alabama 1975, is hereby amended to read as follows:

"§32-5A-173.

"(a) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under this article is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

"(1) Decreases the limit at intersections;

"(2) Increases the limit within an urban district but not to more than the maximum rate of speed that may be prescribed by the governor under subdivision ~~(4)~~ (6) of section 32-5A-171;

"(3) Decreases the limit on any street, unpaved road, or highway under the jurisdiction and control of any county commission or; or

"(4) Increases the limit on any street, unpaved road, or highway under the jurisdiction and control of any county commission but not to more than the maximum rate of speed that is prescribed under subdivision (3) or by the Governor under subdivision (6) of section 32-5A-171.

"(b) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under this chapter for an urban district.

"(c) Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon the street or highway.

"(d) Any alteration of maximum limits on state highways or extensions thereof in a municipality by local authorities shall not be effective until such the alteration has been approved by the highway department.

"(e) Not more than six such alterations as hereinabove authorized shall be made per mile along a street or highway, except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than 10 miles per hour."

Section 3. The provisions of this amendatory act shall become effective on December 1, 1994.

MOTION IN WRITING OFFERED

Representative Hall (A) offered the following Motion in Writing relating to the bill, S. 37:

I move the previous question.

MOTION IN WRITING LOST

And the Motion in Writing was lost.

Yeas 34; Nays 42.

Yea:

Representatives Box, Burke, Butler, Cullins, Dolbare, Freeman, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hammett, Hawkins, Haynes, Hill, Holley, Holmes, Johnson, Knight (J), Kvalheim, Lindsey, McDaniel, McMillan, Page, Parker (P), Penry, Rockhold, Sanderson, Smith (R), Starkey, Warren, White and Zoghby.

-34

Nay:

Representatives Anderson, Barnes, Beasley, Biddle, Black (L), Blakeney, Bowling, Bryant, Buskey, Cagle, Campbell, Carns, Carothers, Clay, Collins, Cosby, Curry, Fuller, Higginbotham, Hilliard, Hogan, Laird, Layson, Letson, Mathis, McClain, McKee, Mikell, Millican, Payne, Perdue, Petelos, Poole, Powell, Rogers (F), Sanderford, Smith (C), Spratt, Thomas, Turner, Turnham and Venable.

-42

MOTION TO ADJOURN LOST

The motion offered by Representative Thomas that the House adjourn until 10:00 o'clock a.m., Monday, April 25, 1994, was lost.

Yeas 40; Nays 43.

Yea:

Representatives Anderson, Barnes, Black (L), Black (M), Bowling, Buskey, Cagle, Clark (W), Collins, Cosby, Crow, Cullins, Flowers, Fuller, Goodwin, Hall (L), Haney, Hawkins, Higginbotham, Hill, Hogan, Laird, Layson, Letson, McClain, McMillan, Mikell, Parker (T), Payne, Penry, Poole, Rogers (F), Sanderford, Smith (R), Starkey, Thomas, Turnham, White, Williams and Willis.

-40

Nay:

Mr. Speaker, Beasley, Blakeney, Box, Bryant, Burke, Butler, Campbell, Carns, Carothers, Curry, Dolbare, Freeman, Gaines, Gaston, Gullatt, Hall (A), Hammett, Haynes, Hilliard, Holley, Holmes, Hooper, Johnson, Knight (A), Kvalheim, Lindsey, McDaniel, McDowell, McKee, Newton (C), Page, Parker (P), Petelos, Powell, Rockhold, Sanderson, Smith (C), Spratt, Turner, Venable, Warren and Zoghby.

-43

S. 37 RESUMED**MOTION IN WRITING OFFERED**

Representative Haynes offered the following Motion in Writing relating to the bill, S. 37:

I move the previous question.

MOTION IN WRITING ADOPTED

And the Motion in Writing was adopted.

Yeas 33; Nays 18.

Yea:

Representatives Beasley, Bowling, Box, Burke, Butler, Campbell, Collins, Crow, Cullins, Dolbare, Goodwin, Gullatt, Hawkins, Haynes, Hill, Holley, Johnson, Lindsey, McDaniel, Mikell, Millican, Page, Parker (P), Petelos, Powell, Sanderford, Sanderson, Smith (C), Spratt, Starkey, Warren, Willis and Zoghby.

-33

Nay:

Representatives Black (L), Bryant, Buskey, Cagle, Carns, Curry, Gaines, Haney, Higginbotham, Hogan, Laird, Letson, McKee, McMillan, Newton (D), Payne, Perdue and Poole.

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PRESENCE OF A QUORUM ASCERTAINED

The presence of a quorum was questioned, and the Speaker directed the Clerk to ascertain if there was a quorum present.

The Clerk reported that there was a quorum present.

SUBSTITUTE ADOPTED

The question was then on the adoption of the substitute offered by Representative Holley to the bill, S. 37, and the substitute was adopted.

Yeas 76; Nays 4.

Yea:

Mr. Speaker, Barnes, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Freeman, Fuller, Gaines, Gaston, Gullatt, Hall (A), Hammett, Haney, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDowell, McMillan, Mikell, Millican, Newton (D), Page, Parker (P), Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Turner, Turnham, Venable, Warren, White, Williams, Willis and Zoghby.

-76

Nay:

Representatives Beasley, Hawkins, Newton (C) and Payne.

- 4

And the bill, S. 37, as amended, was read a third time at length and passed.

Yeas 71; Nays 10.

Yea:

Mr. Speaker, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Campbell, Clark (W), Collins, Cosby, Crow, Cullins, Dolbare, Flowers, Freeman, Fuller, Gaston, Goodwin, Gullatt, Hammett, Haney, Haynes, Higginbotham, Hill, Hilliard, Holladay, Holley, Holmes, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Lindsey, Mathis, McClain, McDaniel, McDowell, McMillan, Mikell, Millican, Newton (C), Newton (D), Page, Parker (P), Penry, Perdue, Petelos, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Turnham, Venable, Warren, Williams, Willis and Zoghby.

-71

Nay:

Representatives Cagle, Carns, Carothers, Curry, Gaines, Hall (A), Hawkins, Payne, Turner and White.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has originated and adopted the following Senate Joint Resolution and sends same herewith to the House for its consideration:

By Senators Owens, Amari, Bailey, Barron, Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Escott-Russell, Figures, Floyd, Foshee, Hale, Hill, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Parsons, Sanders, Smith (B), Smith (J), Underwood, Waggoner, Wilson, and Windom:

S.J.R. 142. NAMING THE "FOREVER WILD" ACT, "THE GHEE-CAMPBELL ACT."

WHEREAS, Alabama is endowed with a rich diversity of natural areas having unique ecological systems, plant and animal life, geological formations, wildlife habitats, recreational values, and scenic beauty; and

WHEREAS, as a part of the continuing growth of the population and the economic development of the state, it is desirable that certain lands and waters be set aside, managed, and preserved for use as state parks, nature preserves, recreation areas, and wildlife management areas; and

WHEREAS, Amendment No. 592 to the Constitution of Alabama of 1901, proposed by Act No. 91-219, H. 301, 1991 Regular Session, and proclaimed ratified February 2, 1993, provides for the acquisition, maintenance, and protection of lands and water areas in this state through the establishment of the Alabama Forever Wild Land Trust; and

WHEREAS, Senator Doug Ghee and Representative James Campbell, both of Anniston, worked tirelessly for passage of the "Forever Wild" Act; and

WHEREAS, the enactment of H. 301 providing for the protection of the natural heritage and the diversity of Alabama for future generations is to the great credit of Senator Doug Ghee and Representative James Campbell; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Amendment No. 592 to the Constitution of Alabama of 1901, proposed by Act No. 91-219, H. 301, 1991 Regular Session, and proclaimed ratified February 2, 1993, is hereby named and shall forever be known as "The Ghee-Campbell Act."

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to our esteemed colleagues, Senator Doug Ghee and Representative James Campbell.

McDOWELL LEE
Secretary

SENATE MESSAGE

The resolution, S.J.R. 142, set out in the foregoing Message from the Senate was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has originated and adopted the following Senate Joint Resolutions and sends same herewith to the House for its consideration:

By Senators Figures and Sanders:

S.J.R. 139. COMMENDING THE SUMTER COUNTY HIGH SCHOOL WILDCATS AS THE 1994 STATE CLASS 4A BASKETBALL CHAMPIONS.

Also:

By Senators Figures and Sanders:

S.J.R. 140. COMMENDING THE SUMTER COUNTY HIGH SCHOOL LADY WILDCATS AS THE 1994 RUNNER-UP FOR THE STATE 4A BASKETBALL CHAMPIONSHIP.

Also:

By Senators Figures and Sanders:

S.J.R. 141. COMMENDING THE SUMTER COUNTY HIGH SCHOOL CHEERLEADERS FOR OUTSTANDING ACHIEVEMENT.

McDOWELL LEE
Secretary

SENATE MESSAGE

The resolution, S.J.R. 139, the title of which is set out in the foregoing Message from the Senate was read and referred to the Standing Committee on Rules.

Also:

The resolution, S.J.R. 140, the title of which is set out in the foregoing Message from the Senate was read and referred to the Standing Committee on Rules.

Also:

The resolution, S.J.R. 141, the title of which is set out in the foregoing Message from the Senate was read and referred to the Standing Committee on Rules.

RESOLUTIONS

The following resolutions were introduced:

By Representative Millican:

H.R. 451. DESIGNATING MAY 1994 AS "ALABAMA MANUFACTURED HOUSING MONTH."

WHEREAS, Alabama's manufactured housing industry has provided more than 500,000 citizens with affordable, well-constructed, single-family housing; and

WHEREAS, the industry continues to initiate and support programs to enhance the quality, safety, comfort, and value of its homes through progressive construction and siting standards; and

WHEREAS, Alabama ranks third in the nation in the production of manufactured homes, with 21 plants producing over 20,000 homes annually for domestic and foreign markets; and

WHEREAS, with its manufacturers, suppliers, retailers, lenders, insurers, and park owners, manufactured housing in Alabama is a billion dollar industry, providing more than 15,000 jobs and an annual payroll in excess of \$200 million; now therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE LEGISLATURE OF ALABAMA, That the month of May 1994 is hereby designated as "Alabama Manufactured Housing Month."

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the chief executive officer of the Alabama Manufactured Housing Institute.

The resolution, H.R. 451, was read and referred to the Standing Committee on Rules.

Also:

The following resolutions were introduced and distributed according to Joint Rule 11:

By Representative Lindsey:

H.R. 452. COMMENDING O. L. "BUD" LEWIS OF BLANCHE, ALABAMA.

Also:

By Representative Holmes:

H.R. 453. CONGRATULATING MRS. LUE BERTHA WHITING ON THE OCCASION OF HER 80TH BIRTHDAY.

Also:

By Representative Rogers (J):

H.R. 454. COMMENDING MARSHALL E. MCGHEE FOR DISTINGUISHED PROFESSIONAL SERVICE.

SPECIAL ORDER CALENDAR RESUMED

And the bill:

S. 274. To amend Section 12-17-81, Code of Alabama 1975, relating to the salary of the circuit clerks and registers, to provide further for the compensation.

was taken up.

CERTIFICATE OF CLERK

To the House of Representatives:

I hereby certify that the House Bills and House Joint Resolutions mentioned were delivered to the Executive Department on the date and hour named and that I hold the receipt of the Executive Department for same.

Delivered to the Governor at 10:25 A.M. on April 14, 1994.

H. 223

H. 195

H. 387

**JOURNAL OF THE HOUSE, 1994
27th Day**

Delivered to the Governor at 3:00 P.M. on April 14, 1994.

H.J.R. 407	H. 685
H.J.R. 421	H. 907
H.J.R. 406	H. 329
H.J.R. 410	H. 243
H.J.R. 411	H. 897
H.J.R. 425	H. 822
H.J.R. 426	H. 878
H.J.R. 390	H. 883
H.J.R. 386	H. 886
H.J.R. 402	

Delivered to the Secretary of State at 3:00 P.M. on April 14, 1994

H. 749 (CONSTITUTIONAL AMENDMENT)

Delivered to the Governor at 4:30 P.M. on April 14, 1994.

H. 845

GREG PAPPAS
Clerk

ADJOURNMENT

On motion of Representative Lindsey and pursuant to the resolution, H.R. 441, heretofore adopted, the House adjourned until 10:00 o'clock a.m., Monday, April 25, 1994.

Yeas 43; Nays 40.

Yea:

Representatives Barnes, Black (L), Black (M), Bowling, Buskey, Cagle, Clark (W), Collins, Cosby, Crow, Cullins, Goodwin, Hammett, Haney, Higginbotham, Hogan, Holladay, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McMillan, Mikell, Millican, Page, Parker (T), Payne, Penry, Perdue, Poole, Powell, Sanderford, Smith (C), Smith (R), Thomas, Turnham, Venable, White, Williams and Willis.

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Nay:

Mr. Speaker, Anderson, Beasley, Biddle, Blakeney, Box, Bryant, Burke, Butler, Campbell, Carns, Carothers, Clay, Curry, Dolbare, Flowers, Freeman, Gaines, Gaston, Gullatt, Hall (A), Harper, Hawkins, Haynes, Hill, Hilliard, Johnson, Knight (A), Knight (J), Kvalheim, McDowell, Parker (P), Petelos, Rockhold, Sanderson, Spratt, Starkey, Turner, Warren and Zoghby.

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TWENTY-EIGHTH DAY

**House of Representatives
Montgomery, Alabama
Monday, April 25, 1994**

The House met pursuant to adjournment.

PRAYER

The session was opened with prayer by Representative James Cullins.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Perry Oliver Hooper, III, 3rd Grade, Trinity School, Montgomery, Alabama.

ROLL CALL

On a call of the roll of the House, the following members answered to their names:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

A quorum was present.

REPORT OF STANDING COMMITTEE ON RULES

House of Representatives:

Your Standing Committee on Rules begs leave to report that it has carefully examined the Journal of the House for the twenty-seventh legislative day and finds the same to be correct.

TOMMY CARTER
Chairman

**MOTION TO SUSPEND RULES AND ADOPT REPORT OF
THE STANDING COMMITTEE ON RULES LOST**

The motion offered by Representative Carter to suspend the rules in order to dispense with the reading at length of the Journal of the House of Representatives for the twenty-seventh legislative day and to concur in and adopt the Report of the Standing Committee on Rules was lost.

Yeas 41; Nays 41.

Yea:

Mr. Speaker, Box, Buskey, Butler, Carns, Carothers, Carter, Clark (W), Curry, Flowers, Gaines, Gaston, Gullatt, Hammett, Haney, Harper, Harvey, Hawkins, Holladay, Hooper, Johnson, Kvalheim, Layson, McDaniel, McDowell, McKee, Morton, Newton (C), Petelos, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Starkey, Turner, Turnham, Venable, Warren, Williams and Zoghby.

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Nay:

Representatives Black (L), Black (M), Blakeney, Bowling, Burke, Cagle, Campbell, Collins, Crow, Dolbare, Drake, Ford, Freeman, Fuller, Goodwin, Hall (L), Haynes, Higginbotham, Hilliard, Holley, Holmes, Kennedy, Knight (J), Laird, Lindsey, Mathis, McMillan, Millican, Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Poole, Powell, Smith (R), Spratt, White and Willis.

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READING OF JOURNAL

The Speaker directed the Clerk to read the Journal of the House for the twenty-seventh legislative day, and the reading commenced.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Presiding Officer of the Senate having signed the following Senate Bills, your signature thereto is requested:

S. 375. To provide distinctive motor vehicle license tags or plates for members of the Fraternal Order of Police; providing for the fees for these tags or plates and for the disposition of the net proceeds from the fees; and providing for a delayed effective date.

Also:

S. 414. Relating to protective services for abused, infirm, incapacitated, neglected, exploited, sexually abused, or emotionally abused; to amend Sections 38-9-2, 38-9-6, 38-9-7, and 38-9-8, Code of Alabama 1975, to require caregivers to report suspected cases of abuse, neglect, exploitation, sexual abuse, and emotional abuse; to require investigations within seven days following an oral report of abuse, neglect, exploitation, sexual abuse, and emotional abuse; and to relieve the county departments of human resources from the requirement of investigating reports from certain penal and mental institutions.

Also:

S. 431. To provide that a person requesting medical records shall pay certain costs for reproduction and delivery of the medical records, and pay for the medical records at delivery.

McDOWELL LEE
Secretary

SIGNING OF SENATE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Message from the Senate.

REPORT OF STANDING COMMITTEE ON RULES RESUMED**MOTION TO SUSPEND RULES AND ADOPT REPORT OF
THE STANDING COMMITTEE ON RULES LOST**

The motion offered by Representative Drake to suspend the rules in order to dispense with further reading of the Journal of the House of Representatives for the twenty-seventh legislative day and to concur in and adopt the Report of the Standing Committee on Rules was lost, lacking a four-fifths vote.

Yeas 30; Nays 29.

Yea:

Mr. Speaker, Beasley, Blakeney, Bowling, Buskey, Carns, Carothers, Collins, Curry, Drake, Gullatt, Hammett, Haney, Hawkins, Haynes, Holladay, Johnson, Layson, Letson, McKee, Morton, Newton (C), Newton (D), Rockhold, Rogers (F), Smith (C), Starkey, Venable, Walker and Zoghby.

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Nay:

Representatives Black (L), Black (M), Burke, Butler, Carter, Cullins, Dolbare, Ford, Freeman, Goodwin, Hall (L), Hilliard, Kennedy, Laird, Lindsey, Mathis, McMillan, Mikell, Millican, Parker (P), Parker (T), Payne, Penry, Perdue, Poole, Powell, Rich, Smith (R) and Spratt.

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MOTION TO SUSPEND RULES AND ADOPT REPORT OF THE STANDING COMMITTEE ON RULES LOST

The motion offered by Representative Sanderson to suspend the rules in order to dispense with further reading of the Journal of the House of Representatives for the twenty-seventh legislative day and to concur in and adopt the Report of the Standing Committee on Rules was lost, lacking a four-fifths vote.

Yeas 45; Nays 27.

Yea:

Mr. Speaker, Beasley, Biddle, Bryant, Burke, Cagle, Carns, Carothers, Collins, Cosby, Crow, Curry, Dolbare, Drake, Gaines, Gaston, Gullatt, Hall (A), Hammett, Haney, Harper, Hawkins, Haynes, Hill, Hogan, Holladay, Johnson, Layson, McDaniel, McDowell, Morton, Newton (C), Petelos, Rockhold, Sanderford, Sanderson, Smith (C), Starkey, Turner, Turnham, Venable, Warren, Williams, Willis and Zoghby.

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Nay:

Representatives Black (M), Bowling, Buskey, Ford, Freeman, Fuller, Goodwin, Hall (L), Higginbotham, Holley, Kennedy, Laird, Lindsey, Mathis, McMillan, Millican, Newton (D), Page, Parker (P), Parker (T), Payne, Perdue, Poole, Powell, Rich, Smith (R) and White.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the House amendment to the following Senate Bill:

S. 37. To amend Sections 32-5A-171 and 32-5A-173, Code of Alabama 1975, as amended, which relate to maximum speed limits so as to provide that the maximum speed limit on unpaved roads shall be 35 miles per hour except as otherwise provided.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the House amendment to the following Senate Bill:

S. 125. To create an Education Technology Fund within the State Treasury and to make an appropriation to the Education Technology Fund for six pilot programs to augment the science curriculum for the fiscal year ending September 30, 1994.

McDOWELL LEE
Secretary

LEAVE OF ABSENCE

At the request of Representative McDaniel, leave of absence was granted for Representative Richardson.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the House amendment to the following Senate Bill:

S. 329. To amend Sections 9-12-54.1, 9-12-54.2, 9-12-54.3, 9-12-54.4, 9-12-54.5, 9-12-54.6, 9-12-54.7, and 9-12-93 by regulating further bait shrimpers, as to poundage, location of shrimp catches, and licensing restrictions, and prescribing certain criminal penalties.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the House amendment to the following Senate Bill:

S. 590. Amending Sections 36-27-23 and 36-27-25, Code of Alabama 1975, to provide further for the Board of Control and the management of the Employees' Retirement System.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the following House Joint Resolutions and returns same herewith to the House:

H.J.R. 429. COMMENDING THE DIRECTOR, CAST, AND CREW OF "BOYS AND GHOULS TOGETHER."

Also:

H.J.R. 432. COMMENDING HAROLD BYRD WISE, GENEVA COUNTY, ON OUTSTANDING PUBLIC SERVICE AND RETIREMENT.

Also:

H.J.R. 435. DESIGNATING FORT PAYNE, ALABAMA, AS THE "OFFICIAL SOCK CAPITAL OF THE WORLD."

Also:

H.J.R. 437. COMMENDING MRS. SADIE MOSS OF SELMA, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

Also:

H.J.R. 438. COMMENDING SHAWNA SAULS OF THE UNIVERSITY OF MONTEVALLO FOR OUTSTANDING ACHIEVEMENT.

Also:

H.J.R. 439. COMMENDING SHEENA BOWLING OF THE UNIVERSITY OF MONTEVALLO FOR OUTSTANDING ACHIEVEMENT.

Also:

H.J.R. 440. COMMENDING JUDITH M. GREEN, COACH OF THE YEAR.

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Also:

H.J.R. 446. COMMENDING THE ADAMS MIDDLE SCHOOL BAND OF SARALAND, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

Also:

H.J.R. 448. COMMENDING O. L. "BUD" LEWIS OF BLANCHE, ALABAMA.

Also:

H.J.R. 450. COMMENDING THE SENIOR MEMBERS OF THE SATSUMA HIGH SCHOOL BAND, SATSUMA, ALABAMA.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 430. To make a supplemental appropriation for the sum of thirty thousand dollars (\$30,000) to the Alabama Liquefied Petroleum Gas Board from the Alabama Liquefied Petroleum Gas Board Fund for the fiscal year ending September 30, 1994.

Also:

H. 755. Proposing an amendment to the Constitution of 1901; relating to legalizing certain operations of bingo games for prizes or money for charitable or educational purposes in Houston County; and repealing Act No. 93-333, H. 717 of the 1993 Regular Session.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 75. Relating to the City of Birmingham; to amend Articles V and VI of Act No. 1272, H. 620, 1973 Regular Session (Acts 1973, p. 2124) as amended, providing for the Retirement and Relief System of the City of Birmingham; provid-

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ing for benefit increases and contribution reductions; providing for vesting and early retirement options for current participants; providing for additional benefits to retirees; providing for a one-half of one percent reduction in the contribution of the city and the participants if the fund is found and remains actuarially sound; and providing for an effective date.

Also:

H. 416. Relating to Jefferson County; regulating persons practicing the art of tattooing; and prescribing criminal and administrative penalties.

Also:

H. 502. To amend Section 12-17-94, Code of Alabama 1975, relating to the duties of the circuit clerks; to provide an additional duty of monitoring court orders directed at criminal defendants relating to fines, court costs, and other court-ordered monies; and to make a conditional appropriation to the Unified Judicial System.

Also:

H. 539. To alter, rearrange and extend the boundary lines and corporate limits of the City of Graysville, Jefferson County, annexing certain territory to the city.

Also:

H. 730. To amend Section 11-43C-40, Code of Alabama 1975, to provide further for the appropriations for the salaries of personnel employed by the mayors of certain Class 5 Municipalities.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 906. Relating to Shelby County; to impose a fee on the privilege of engaging in the business of buying, selling, or renting real property in the county.

Also:

H. 908. Relating to Elmore County; to provide for the speed limit on unpaved county roads.

Also:

H. 910. Relating to the Twenty-eighth Judicial Circuit of Alabama by

authorizing the district attorney to establish a Restitution Recovery Division within the office of the district attorney; to provide for collection and the enforcement of court orders in certain cases of nonpayment of restitution to victims of crime, court costs, fines, penalty payments, victim compensation assessments, and bond forfeitures; to provide a collection fee; to provide funding for the new Restitution Recovery Division; and to provide for a circuit clerk's fund to assist the clerk in the implementation of this act.

Also:

H. 922. Relating to Dallas County; to provide for the distribution of beer tax revenue collected in the corporate limits and police jurisdiction of the Town of Orrville.

Also:

H. 923. Relating to Dallas County; providing for an additional special transaction fee on certain public business filed and transacted in the office of the revenue commissioner; and providing for disposition of funds from the additional fees.

**McDOWELL LEE
Secretary**

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 418. Relating to Jefferson County; regulating the operation of tanning facilities; requiring the safe and sanitary operation of tanning devices; and prescribing civil and administrative penalties.

Also:

H. 446. Relating to Jefferson County; providing for an additional expense allowance for the Deputy Treasurer, Bessemer Division.

Also:

H. 447. Relating to Jefferson County; to fix the salary of the Deputy Judge of Probate for the Bessemer Division.

Also:

H. 607. To amend Act No. 556 of the 1959 Regular Session (Acts 1959, p. 1376), establishing a Firemen's and Policemen's Supplemental Pension System for the City of Birmingham; to authorize the City of Birmingham as employer of the members of the Firemen's and Policemen's Supplemental Pension System to pay certain employee contributions for certain members of the system.

Also:

H. 829. Relating to Jefferson County; to provide for the maintenance, operation, and financing of the public law library for the Birmingham Division of the Tenth Judicial Circuit; to impose additional court costs to certain court costs presently in effect in the Birmingham Division of the Tenth Judicial Circuit of Alabama; to provide for the payment of those funds into the existing Birmingham Division Law Library Fund; to provide that the presiding circuit judge shall administer the Birmingham Division Law Fund and public law library; and to provide that the costs and charges collected be placed in a "Treatment to Alternative Street Crime Fund" and to provide for distribution of the funds.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 759. Relating to retirement or participant benefits and spouse's or survivor's benefits paid by certain pension, relief, or retirement systems of Class 1 municipalities to persons who are covered under the Policemen's Pension and Relief Fund provided by Act No. 502 of the 1923 Session of the Legislature, as amended, the Fireman's Pension and Relief Fund provided by Act No. 307 of the 1943 Session of the Legislature, as amended, the Separate Policeman's Retirement and Relief System provided by Act No. 470 of the 1955 Regular Session of the Legislature, as amended, or the Separate Firemen's Pension and Relief System provided by Act No. 217 of the 1966 Special Session of the Legislature, as amended, to provide further for certain minimum monthly benefits payable under the systems to certain persons.

Also:

H. 825. To provide that the sheriff of Montgomery County, at his or her discretion, may provide a retiring officer his badge and pistol.

Also:

H. 856. Relating to Jefferson County; to provide that each Commissioner of the Jefferson County Commission shall be entitled to have either an automobile with fuel, oil, and repairs furnished by Jefferson County for use in carrying out official duties as a commissioner, or a certain expense allowance as reimbursement for the commissioners' use of a personal vehicle and fuel, oil, and repairs for official duties.

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Also:

H. 882. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Napier Field in Dale County.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 904. Relating to Blount County; to further provide for the compensation of the judge of probate.

Also:

H. 920. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Moody in St. Clair County.

Also:

H. 924. Relating to Dallas County; providing further for the salary of the sheriff.

Also:

H. 931. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Gainesville in Sumter County.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 201. To make an appropriation to the Space Science Exhibit Commission for the fiscal year ending September 30, 1995, for educational purposes.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 123. To amend Section 40-23-100, Code of Alabama 1975, to provide further for definitions including a definition for a motorboat; to amend Section 40-23-101, Code of Alabama 1975, to levy a sales tax on certain motorboats; to amend Section 40-23-102, Code of Alabama 1975, to provide for the levy of a use tax on certain motorboats; to amend Section 40-23-103, Code of Alabama 1975, to provide credit where items are taken in trade in a sale subject to the tax; to amend Section 40-23-104, Code of Alabama 1975, to provide further for the procedures for the collection of the taxes levied hereunder; to amend Section 40-23-106, Code of Alabama 1975, to provide for reciprocity with states that provide a credit for Alabama taxes; to amend Section 40-23-107, Code of Alabama 1975, to provide further for fees for the collection of taxes levied; to amend Section 40-23-108, Code of Alabama 1975, to provide for distribution of the tax proceeds; to amend Section 33-5-11, Code of Alabama 1975; to provide further for the registration and numbering of vessels; to authorize the State Department of Revenue to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 3, Chapter 23, Title 40, Code of Alabama 1975; to repeal Section 40-23-109, Code of Alabama 1975; to repeal Act No. 93-711, 1993 Regular Session, now appearing as Sections 40-23-112, to 40-23-118, inclusive, Code of Alabama 1975; and to provide for a prospective effective date of this act.

Also:

H. 654. To amend Section 8-22-16, Code of Alabama 1975, to provide that 30 percent of any penalties collected in an action to enforce the provisions of the act brought by a district attorney shall go to the office of the district attorney which brought the action.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 325. To amend Act No. 556 of the 1959 Regular Session (Acts 1959, p. 1376), establishing a Firemen's and Policemen's Supplemental Pension System for the City of Birmingham; to authorize the City of Birmingham as employer of the members of the Firemen's and Policemen's Supplemental Pension System to pay certain employee contributions for certain members of the system.

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Also:

H. 929. Relating to Monroe County; providing for an additional expense allowance and salary for the coroner.

Also:

H. 930. Relating to Sumter County; to amend Section 2 of Act No. 90-612, H. 961, 1990 Regular Session (Acts 1990, p. 1124), relating to hazardous waste disposal fees; to provide that the trustees may invest the proceeds from the fees.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 282. To provide a credit for certain service in the determination of longevity payments pursuant to Section 36-6-11, Code of Alabama 1975.

Also:

H. 788. Relating to single and multi-family dwellings for low or moderate income persons or families which may be provided by a governing body of a municipality or county; to alter the definition of the term low or moderate income person or family by amending Section 11-96A-2, Code of Alabama 1975.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Presiding Officer of the Senate having signed the following Senate Bill, your signature thereto is requested:

S. 590. Amending Sections 36-27-23 and 36-27-25, Code of Alabama 1975, to provide further for the Board of Control and the management of the Employees' Retirement System.

McDOWELL LEE
Secretary

SIGNING OF SENATE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Message from the Senate.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Presiding Officer of the Senate having signed the following Senate Bills, your signature thereto is requested:

S. 37. To amend Sections 32-5A-171 and 32-5A-173, Code of Alabama 1975, as amended, which relate to maximum speed limits so as to provide that the maximum speed limit on unpaved roads shall be 35 miles per hour except as otherwise provided.

Also:

S. 125. To create an Education Technology Fund within the State Treasury and to make an appropriation to the Education Technology Fund for six pilot programs to augment the science curriculum for the fiscal year ending September 30, 1994.

Also:

S. 329. To amend Sections 9-12-54.1, 9-12-54.2, 9-12-54.3, 9-12-54.4, 9-12-54.5, 9-12-54.6, 9-12-54.7, and 9-12-93 by regulating further bait shrimpers, as to poundage, location of shrimp catches, and licensing restrictions, and prescribing certain criminal penalties.

McDOWELL LEE
Secretary

SIGNING OF SENATE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Message from the Senate.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 58. Proposing an amendment to the Constitution of Alabama of 1901, to prohibit the establishment of supernumerary positions and allow those affected officials to participate in the Employees' Retirement System.

Also:

H. 817. To amend Section 17-10-11, Code of Alabama 1975, to provide for appointment of election workers in sufficient numbers as necessary to process and canvas absentee ballots using optical scanning devices.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 872. To provide procedures by which class 1 municipalities may establish one or more Self-Help Business Improvement Districts to provide supplemental services financed by special assessments levied on the owners of the real property located within the geographical area of the district; to provide for the management, operation, powers, and duties of the districts, including the creation of nonprofit corporations to manage the districts; to provide certain required provisions in the articles of incorporation of district management corporations; to provide for dissolution of a district and withdrawal of a nonprofit corporation's designation as a district management corporation; to provide that district management corporations shall have no power of eminent domain; and to provide certain tax exemptions for district management corporations.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 244. To provide that a defendant who has been adjudged in a paternity proceeding to be the father of a child may, except in the case of adoption, reopen the case upon scientific evidence that the defendant is not the father of the child.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 213. To make an appropriation to the Project DARE and the DON'T - Madison County drug education programs for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 115. To create a new district judgeship for Cullman County.

Also:

H. 131. Relating to insurance, to allow domestic stock insurers and domestic mutual insurers to pay dividends from other than earned surplus only with prior approval of the commissioner, by amending Sections 27-27-37 and 27-27-38, Code of Alabama 1975; to amend Sections 27-29-1, 27-29-2, 27-29-3, 27-29-4, and 27-29-5, Code of Alabama 1975, relating to insurance; to provide further for the regulation of insurance in this state by amending the Alabama Insurance Holding Company System Regulatory Act so as to make it substantially similar to the model act; and to add a new section regarding recovery rights of the receiver of an insolvent insurer.

Also:

H. 305. To authorize the director of finance to establish by October 1, 1994, a state employee injury compensation program and amend Sections 41-9-62 and 41-9-68, Code of Alabama 1975, which currently make the board of adjustment the exclusive remedy for state employees who are injured while at work.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 273. To amend Section 13A-5-40 of the Code of Alabama 1975, relating to crimes punishable as capital offenses so as to further amplify and specify as capital offenses the crimes of murder committed by or through the use of a deadly weapon fired or otherwise used from outside a dwelling while the victim is in a dwelling, murder committed by or through the use of a deadly weapon while the victim is in a vehicle, and murder committed by or through the use of a deadly weapon fired or otherwise used within or from a vehicle; and to include a savings provision relating to proceedings pending and rights and liabilities existing, acquired, or incurred prior to and as of the effective date of this act.

Also:

H. 594. To amend Sections 25-4-77 and 25-4-75, of the Code of Alabama 1975, as amended by Section 1 of Act No. 93-253, S. 459, 1993 Regular Session, relating to unemployment compensation, to provide further for restrictions on extended benefits, eligibility requirements for benefits, in order to conform with federal law.

Also:

H. 814. To amend Section 25-4-72, Code of Alabama 1975, relating to unemployment compensation weekly benefits, to further provide for the amount of unemployment compensation benefits; and to amend Section 25-4-78, Code of Alabama 1975, relating to disqualifications for unemployment compensation benefits, to provide for disqualification of unemployment compensation benefits due to dismissal for testing positive for the use of illegal drugs.

McDOWELL LEE
Secretary

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 755. Proposing an amendment to the Constitution of 1901; relating to legalizing certain operations of bingo games for prizes or money for charitable or educational purposes in Houston County; and repealing Act No. 93-333, H. 717 of the 1993 Regular Session.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 58. Proposing an amendment to the Constitution of Alabama of 1901, to prohibit the establishment of supernumerary positions and allow those affected officials to participate in the Employees' Retirement System.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 201. To make an appropriation to the Space Science Exhibit Commission for the fiscal year ending September 30, 1995, for educational purposes.

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Also:

H. 931. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Gainesville in Sumter County.

Also:

H. 924. Relating to Dallas County; providing further for the salary of the sheriff.

Also:

H. 920. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Moody in St. Clair County.

Also:

H. 904. Relating to Blount County; to further provide for the compensation of the judge of probate.

Also:

H. 759. Relating to retirement or participant benefits and spouse's or survivor's benefits paid by certain pension, relief, or retirement systems of Class 1 municipalities to persons who are covered under the Policemen's Pension and Relief Fund provided by Act No. 502 of the 1923 Session of the Legislature, as amended, the Fireman's Pension and Relief Fund provided by Act No. 307 of the 1943 Session of the Legislature, as amended, the Separate Policeman's Retirement and Relief System provided by Act No. 470 of the 1955 Regular Session of the Legislature, as amended, or the Separate Firemen's Pension and Relief System provided by Act No. 217 of the 1966 Special Session of the Legislature, as amended, to provide further for certain minimum monthly benefits payable under the systems to certain persons.

Also:

H. 825. To provide that the sheriff of Montgomery County, at his or her discretion, may provide a retiring officer his badge and pistol.

Also:

H. 856. Relating to Jefferson County; to provide that each Commissioner of the Jefferson County Commission shall be entitled to have either an automobile with fuel, oil, and repairs furnished by Jefferson County for use in carrying out official duties as a commissioner, or a certain expense allowance as reimbursement for the commissioners' use of a personal vehicle and fuel, oil, and repairs for official duties.

Also:

H. 882. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Napier Field in Dale County.

Also:

H. 418. Relating to Jefferson County; regulating the operation of tanning facilities; requiring the safe and sanitary operation of tanning devices; and prescribing civil and administrative penalties.

Also:

H. 446. Relating to Jefferson County; providing for an additional expense allowance for the Deputy Treasurer, Bessemer Division.

Also:

H. 447. Relating to Jefferson County; to fix the salary of the Deputy Judge of Probate for the Bessemer Division.

Also:

H. 607. To amend Act No. 556 of the 1959 Regular Session (Acts 1959, p. 1376), establishing a Firemen's and Policemen's Supplemental Pension System for the City of Birmingham; to authorize the City of Birmingham as employer of the members of the Firemen's and Policemen's Supplemental Pension System to pay certain employee contributions for certain members of the system.

Also:

H. 829. Relating to Jefferson County; to provide for the maintenance, operation, and financing of the public law library for the Birmingham Division of the Tenth Judicial Circuit; to impose additional court costs to certain court costs presently in effect in the Birmingham Division of the Tenth Judicial Circuit of Alabama; to provide for the payment of those funds into the existing Birmingham Division Law Library Fund; to provide that the presiding circuit judge shall administer the Birmingham Division Law Fund and public law library; and to provide that the costs and charges collected be placed in a "Treatment to Alternative Street Crime Fund" and to provide for distribution of the funds.

Also:

H. 906. Relating to Shelby County; to impose a fee on the privilege of engaging in the business of buying, selling, or renting real property in the county.

Also:

H. 908. Relating to Elmore County; to provide for the speed limit on unpaved county roads.

Also:

H. 910. Relating to the Twenty-eighth Judicial Circuit of Alabama by authorizing the district attorney to establish a Restitution Recovery Division within the office of the district attorney; to provide for collection and the enforcement of court orders in certain cases of nonpayment of restitution to victims of crime, court

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costs, fines, penalty payments, victim compensation assessments, and bond forfeitures; to provide a collection fee; to provide funding for the new Restitution Recovery Division; and to provide for a circuit clerk's fund to assist the clerk in the implementation of this act.

Also:

H. 922. Relating to Dallas County; to provide for the distribution of beer tax revenue collected in the corporate limits and police jurisdiction of the Town of Orrville.

Also:

H. 923. Relating to Dallas County; providing for an additional special transaction fee on certain public business filed and transacted in the office of the revenue commissioner; and providing for disposition of funds from the additional fees.

Also:

H. 430. To make a supplemental appropriation for the sum of thirty thousand dollars (\$30,000) to the Alabama Liquefied Petroleum Gas Board from the Alabama Liquefied Petroleum Gas Board Fund for the fiscal year ending September 30, 1994.

Also:

H. 730. To amend Section 11-43C-40, Code of Alabama 1975, to provide further for the appropriations for the salaries of personnel employed by the mayors of certain Class 5 Municipalities.

Also:

H. 416. Relating to Jefferson County; regulating persons practicing the art of tattooing; and prescribing criminal and administrative penalties.

Also:

H. 502. To amend Section 12-17-94, Code of Alabama 1975, relating to the duties of the circuit clerks; to provide an additional duty of monitoring court orders directed at criminal defendants relating to fines, court costs, and other court-ordered monies; and to make a conditional appropriation to the Unified Judicial System.

Also:

H. 539. To alter, rearrange and extend the boundary lines and corporate limits of the City of Graysville, Jefferson County, annexing certain territory to the city.

Also:

H. 75. Relating to the City of Birmingham; to amend Articles V and VI of Act

No. 1272, H. 620, 1973 Regular Session (Acts 1973, p. 2124) as amended, providing for the Retirement and Relief System of the City of Birmingham; providing for benefit increases and contribution reductions; providing for vesting and early retirement options for current participants; providing for additional benefits to retirees; providing for a one-half of one percent reduction in the contribution of the city and the participants if the fund is found and remains actuarially sound; and providing for an effective date.

Also:

H. 654. To amend Section 8-22-16, Code of Alabama 1975, to provide that 30 percent of any penalties collected in an action to enforce the provisions of the act brought by a district attorney shall go to the office of the district attorney which brought the action.

Also:

H. 123. To amend Section 40-23-100, Code of Alabama 1975, to provide further for definitions including a definition for a motorboat; to amend Section 40-23-101, Code of Alabama 1975, to levy a sales tax on certain motorboats; to amend Section 40-23-102, Code of Alabama 1975, to provide for the levy of a use tax on certain motorboats; to amend Section 40-23-103, Code of Alabama 1975, to provide credit where items are taken in trade in a sale subject to the tax; to amend Section 40-23-104, Code of Alabama 1975, to provide further for the procedures for the collection of the taxes levied hereunder; to amend Section 40-23-106, Code of Alabama 1975, to provide for reciprocity with states that provide a credit for Alabama taxes; to amend Section 40-23-107, Code of Alabama 1975, to provide further for fees for the collection of taxes levied; to amend Section 40-23-108, Code of Alabama 1975, to provide for distribution of the tax proceeds; to amend Section 33-5-11, Code of Alabama 1975; to provide further for the registration and numbering of vessels; to authorize the State Department of Revenue to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 3, Chapter 23, Title 40, Code of Alabama 1975; to repeal Section 40-23-109, Code of Alabama 1975; to repeal Act No. 93-711, 1993 Regular Session, now appearing as Sections 40-23-112, to 40-23-118, inclusive, Code of Alabama 1975; and to provide for a prospective effective date of this act.

Also:

H. 930. Relating to Sumter County; to amend Section 2 of Act No. 90-612, H. 961, 1990 Regular Session (Acts 1990, p. 1124), relating to hazardous waste disposal fees; to provide that the trustees may invest the proceeds from the fees.

Also:

H. 929. Relating to Monroe County; providing for an additional expense allowance and salary for the coroner.

Also:

H. 325. To amend Act No. 556 of the 1959 Regular Session (Acts 1959, p. 1376), establishing a Firemen's and Policemen's Supplemental Pension System

for the City of Birmingham; to authorize the City of Birmingham as employer of the members of the Firemen's and Policemen's Supplemental Pension System to pay certain employee contributions for certain members of the system.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Joint Resolutions, to-wit:

**H.J.R. 429. COMMENDING THE DIRECTOR, CAST, AND CREW OF
"BOYS AND GHOULS TOGETHER."**

Also:

**H.J.R. 432. COMMENDING HAROLD BYRD WISE, GENEVA COUNTY,
ON OUTSTANDING PUBLIC SERVICE AND RETIREMENT.**

Also:

**H.J.R. 435. DESIGNATING FORT PAYNE, ALABAMA, AS THE "OFFICIAL
SOCK CAPITAL OF THE WORLD."**

Also:

**H.J.R. 437. COMMENDING MRS. SADIE MOSS OF SELMA, ALABAMA,
FOR OUTSTANDING ACHIEVEMENT.**

Also:

**H.J.R. 438. COMMENDING SHAWNA SAULS OF THE UNIVERSITY OF
MONTEVALLO FOR OUTSTANDING ACHIEVEMENT.**

Also:

**H.J.R. 439. COMMENDING SHEENA BOWLING OF THE UNIVERSITY OF
MONTEVALLO FOR OUTSTANDING ACHIEVEMENT.**

Also:

H.J.R. 440. COMMENDING JUDITH M. GREEN, COACH OF THE YEAR.

Also:

H.J.R. 446. COMMENDING THE ADAMS MIDDLE SCHOOL BAND OF SARALAND, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

Also:

H.J.R. 448. COMMENDING O. L. "BUD" LEWIS OF BLANCHE, ALABAMA.

Also:

H.J.R. 450. COMMENDING THE SENIOR MEMBERS OF THE SATSUMA HIGH SCHOOL BAND, SATSUMA, ALABAMA.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE JOINT RESOLUTIONS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the House Joint Resolutions, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 282. To provide a credit for certain service in the determination of longevity payments pursuant to Section 36-6-11, Code of Alabama 1975.

Also:

H. 788. Relating to single and multi-family dwellings for low or moderate income persons or families which may be provided by a governing body of a municipality or county; to alter the definition of the term low or moderate income person or family by amending Section 11-96A-2, Code of Alabama 1975.

Also:

H. 817. To amend Section 17-10-11, Code of Alabama 1975, to provide for appointment of election workers in sufficient numbers as necessary to process and canvas absentee ballots using optical scanning devices.

Also:

H. 872. To provide procedures by which class 1 municipalities may establish one or more Self-Help Business Improvement Districts to provide supplemental services financed by special assessments levied on the owners of the real property located within the geographical area of the district; to provide for the management, operation, powers, and duties of the districts, including the creation of nonprofit corporations to manage the districts; to provide certain required provisions in the articles of incorporation of district management corporations; to provide for dissolution of a district and withdrawal of a nonprofit corporation's designation as a district management corporation; to provide that district management corporations shall have no power of eminent domain; and to provide certain tax exemptions for district management corporations.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 213. To make an appropriation to the Project DARE and the DON'T - Madison County drug education programs for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

Also:

H. 244. To provide that a defendant who has been adjudged in a paternity proceeding to be the father of a child may, except in the case of adoption, reopen the case upon scientific evidence that the defendant is not the father of the child.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 324. To amend Section 41-9-252, Code of Alabama 1975, to provide for an executive director, assistant director, and staff to perform educational, promotional, and fund-raising functions relating to the Old Cahaba Capitol Site.

Also:

H. 527. To amend Sections 15-25-1, 15-25-3, 15-25-30, 15-25-31, and 15-25-39, Code of Alabama 1975, so as to provide that in criminal proceedings involving physical offenses against a child, the victim and witnesses be treated in the same manner as for certain children under the age of 16 involving sexual abuse, sexual offenses, and sexual exploitation, relating to testifying, use of electronic equipment, court appearances, and admissibility of certain evidentiary matters of a material nature.

Also:

H. 583. To regulate commercial telephone solicitation, to require the annual registration, licensing, and bonding of commercial telephone sellers and salespersons, to specify exemptions, to set license fees, to prescribe civil and criminal penalties for violations, to authorize administration and enforcement by the Attorney General, to authorize waiver of civil penalties or other claims or costs if the violator has previously made full restitution or reimbursement or paid actual damages to injured purchasers, to authorize settlement of claims and actions, to authorize deposit of civil penalties, settlement amounts, attorney's fees, and costs into the State General Fund and appropriations therefrom for deposit into a special revenue account together with other receipts in the Office of the Attorney General, to provide for a revolving fund for implementation and enforcement of this act, and for administration, investigation, and future civil and criminal prosecution.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the Report of the Committee on Conference appointed to reconcile the disagreement of the two Houses on the Senate amendment to the Bill:

H. 239. To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama Cattlemen's Association for the Children's Museum and to the Wiregrass Museum of Art to be used for educational purposes for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

And said Bill, HB 239, together with the Conference Report, is herewith returned to the House.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the Report of the Committee on Conference appointed to reconcile the disagreement of the two Houses on the Senate amendment to the Bill:

H. 200. To make an appropriation for the support and maintenance of the Special Schools for Special Education for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

And said Bill, HB 200, together with the Conference Report, is herewith returned to the House.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the Report of the Committee on Conference appointed to reconcile the disagreement of the two Houses on the Senate amendment to the Bill:

H. 241. Relating to mental health and mental retardation; providing for the exercise of temporary custody of alleged mentally ill persons by law enforcement and community mental health officers at designated mental health facilities;

authorizing the judge of probate to make a finding in order that the county might, with the approval of the county commission, adopt and be covered by the provisions of this act; and providing civil immunity for certain persons acting in good faith pursuant to the provisions of this act.

And said Bill, HB 241, together with the Conference Report, is herewith returned to the House.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the Report of the Committee on Conference appointed to reconcile the disagreement of the two Houses on the Senate amendment to the Bill:

H. 812. To amend Section 3 and Section 4 of Act No. 93-190, H. 246 of the 1993 Regular Session (Acts 1993, p. 287), making supplemental appropriations to the Alabama Department of Economic and Community Affairs; to remove the condition that supplemental appropriations be made in anticipation of federal funds to be received from the Economic Stimulus Program of the President of the United States for the State Community Development Block Grant Program; and to repeal Section 6 of Act No. 93-190, H. 246 of the 1993 Regular Session (Acts 1993, p. 287), making the supplemental appropriations contingent upon receipt of the federal notice of funding from the Department of Housing and Urban Development for the Economic Stimulus Program.

And said Bill, HB 812, together with the Conference Report, is herewith returned to the House.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 679. To amend Section 36-21-66 of the Code of Alabama 1975, to provide further for the investment authority and policies of the Board of Commissioners of the Alabama Peace Officers' Annuity and Benefit Fund.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 424. To amend Section 11-45-1.1 of the Code of Alabama 1975, relating to the regulation of handguns, to specify the authority of the municipal courts to exercise concurrent jurisdiction with the district courts over violations of state handgun laws which are prosecuted as violations of municipal ordinances.

Also:

H. 816. To amend Section 16-8-12, Code of Alabama 1975, relating to the vesting of legal title to school property in the county board of education, to provide that a county board of education may convey school property to a volunteer fire department in the county.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 91. To amend Section 40-25-18, Code of Alabama 1975, to allow county licensing and tax officials to levy an additional penalty on persons possessing untaxed tobacco products.

Also:

H. 491. To amend Section 17-4-153, Code of Alabama 1975, to provide further for the salary of each member of the Board of Registrars in each county.

Also:

H. 544. To amend Sections 8-24-1, 8-24-2, 8-24-3, 8-24-4, and 8-24-5, Code of Alabama 1975, relating to commission contracts between a sales representative and certain principals; to further provide for the definition of a principal; to provide that the terms of a contract between the principal and sales representative shall determine when a commission becomes due or in the absence of a contract, past practices between the parties or the prevailing custom and usage shall control; to provide that commissions due at the time of termination of a contract shall be paid within thirty days; to provide that a principal who fails to pay a commission when due shall be liable to the sales representative in a civil action for treble damages, attorney's fees, and court costs; and to provide that the provisions of this statute cannot be waived and that any remedy is cumulative and not exclusive.

Also:

H. 648. To amend Section 37-1-18, Code of Alabama 1975, which provides for an annual appropriation from the State General Fund to the Consumer's Utility Rate Hearing Fund to be used for the presentation of the case for the consumer in utility rate increase hearings before the Public Service Commission, so as to provide for the use of the Consumer Utility Rate Hearing Fund by the Attorney General and that the fund shall be under the Office of the Attorney General.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 487. To amend Sections 26-17-5, 26-17-6, 26-17-10, 26-17-12, 26-17-13, and 26-17-15, Code of Alabama 1975, the Uniform Parentage Act, and to add a new code section to the Uniform Parentage Act, to provide further for the procedures for the establishment of paternity by: (1) providing for the execution of affidavits of paternity; (2) creating a presumption of paternity upon execution of voluntary affidavits; (3) providing default judgments under specific circumstances; (4) providing further for genetic testing; (5) creating a rebuttable presumption of paternity where genetic testing results indicate a certain probability of paternity; (6) providing for the admission of genetic testing results unless objections are filed under certain procedures; (7) providing for full faith and credit to other states paternity acknowledgments and orders; and (8) establishing a hospital paternity acknowledgment program.

Also:

H. 748. To amend Section 23-1-50.1 of the Code of Alabama 1975, to further provide for the definition of road machinery and equipment to include certain aircraft and automotive equipment transferred from the Department of Finance to the Department of Transportation, pursuant to Executive Order No. 12, dated December 21, 1993, in the Department of Transportation, Road Machinery and Equipment Management Program and Equipment Management Surplus Reserve Account.

Also:

H. 810. To provide for the installation of certain types of liquefied petroleum gas room heaters in certain residences and used manufactured homes under certain conditions.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 555. Relating to Limestone County; authorizing the Limestone County Commission to further regulate and license the operation of junkyards and prohibit certain accumulation and storage of junk, inoperable motor vehicles, and other litter within the unincorporated territory of the county; to provide that certain acts constitute a public nuisance and are unlawful; to provide certain exceptions; to provide civil remedies including actions to enjoin and abate conduct constituting a public nuisance; to provide that the county commission may regulate and establish requirements for issuing licenses to operate junkyards or store junk; and to provide for the annual license fee for the privilege of operating a junkyard in the unincorporated area of the county under certain conditions.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the following House Joint Resolutions and returns same herewith to the House:

H.J.R. 279. MEMORIALIZING THE ALABAMA CONGRESSIONAL DELEGATION AND PRESIDENT CLINTON REGARDING THE PROPOSED AMENDMENT TO THE FEDERAL AVIATION ACT OF 1958.

Also:

H.J.R. 355. DESIGNATING THE ALABAMA COMMISSION ON AGING AS THE LEAD AGENCY FOR THE EXAMINATION AND REVISION OF THE LONG-TERM CARE SYSTEM IN ALABAMA.

McDOWELL LEE
Secretary

REPORT OF STANDING COMMITTEE ON RULES RESUMED

**MOTION TO SUSPEND RULES AND ADOPT REPORT OF
THE STANDING COMMITTEE ON RULES LOST**

The motion offered by Representative Willis to suspend the rules in order to dispense with further reading of the Journal of the House of Representatives for the twenty-seventh legislative day and to concur in and adopt the Report of the Standing Committee on Rules was lost, lacking a four-fifths vote.

Yeas 40; Nays 25.

Yea:

Mr. Speaker, Beasley, Box, Bryant, Burke, Carns, Collins, Cosby, Curry, Flowers, Gaines, Gaston, Gullatt, Harper, Harvey, Hawkins, Hill, Hilliard, Holladay, Hooper, Knight (A), Kvalheim, Layson, McDaniel, McDowell, McKee, Melton, Morton, Newton (C), Newton (D), Page, Petelos, Rockhold, Rogers (F), Sanderson, Smith (C), Spratt, Turnham, Willis and Zoghby.

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Nay:

Representatives Buskey, Cagle, Carter, Crow, Dolbare, Drake, Ford, Freeman, Fuller, Holley, Kennedy, Laird, Mathis, McMillan, Millican, Morrow, Parker (P), Parker (T), Payne, Penry, Perdue, Rich, Smith (R), Warren and White.

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REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 273. To amend Section 13A-5-40 of the Code of Alabama 1975, relating to crimes punishable as capital offenses so as to further amplify and specify as capital offenses the crimes of murder committed by or through the use of a deadly weapon fired or otherwise used from outside a dwelling while the victim is in a dwelling, murder committed by or through the use of a deadly weapon while the victim is in a vehicle, and murder committed by or through the use of a deadly weapon fired or otherwise used within or from a vehicle; and to include a savings provision relating to proceedings pending and rights and liabilities existing, acquired, or incurred prior to and as of the effective date of this act.

Also:

H. 594. To amend Sections 25-4-77 and 25-4-75, of the Code of Alabama 1975, as amended by Section 1 of Act No. 93-253, S. 459, 1993 Regular Session, relating to unemployment compensation, to provide further for restrictions on extended benefits, eligibility requirements for benefits, in order to conform with federal law.

Also:

H. 814. To amend Section 25-4-72, Code of Alabama 1975, relating to unemployment compensation weekly benefits, to further provide for the amount of unemployment compensation benefits; and to amend Section 25-4-78, Code of

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Alabama 1975, relating to disqualifications for unemployment compensation benefits, to provide for disqualification of unemployment compensation benefits due to dismissal for testing positive for the use of illegal drugs.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 115. To create a new district judgeship for Cullman County.

Also:

H. 131. Relating to insurance, to allow domestic stock insurers and domestic mutual insurers to pay dividends from other than earned surplus only with prior approval of the commissioner, by amending Sections 27-27-37 and 27-27-38, Code of Alabama 1975; to amend Sections 27-29-1, 27-29-2, 27-29-3, 27-29-4, and 27-29-5, Code of Alabama 1975, relating to insurance; to provide further for the regulation of insurance in this state by amending the Alabama Insurance Holding Company System Regulatory Act so as to make it substantially similar to the model act; and to add a new section regarding recovery rights of the receiver of an insolvent insurer.

Also:

H. 305. To authorize the director of finance to establish by October 1, 1994, a state employee injury compensation program and amend Sections 41-9-62 and 41-9-68, Code of Alabama 1975, which currently make the board of adjustment the exclusive remedy for state employees who are injured while at work.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

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Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 424. To amend Section 11-45-1.1 of the Code of Alabama 1975, relating to the regulation of handguns, to specify the authority of the municipal courts to exercise concurrent jurisdiction with the district courts over violations of state handgun laws which are prosecuted as violations of municipal ordinances.

Also:

H. 679. To amend Section 36-21-66 of the Code of Alabama 1975, to provide further for the investment authority and policies of the Board of Commissioners of the Alabama Peace Officers' Annuity and Benefit Fund.

Also:

H. 816. To amend Section 16-8-12, Code of Alabama 1975, relating to the vesting of legal title to school property in the county board of education, to provide that a county board of education may convey school property to a volunteer fire department in the county.

Also:

H. 324. To amend Section 41-9-252, Code of Alabama 1975, to provide for an executive director, assistant director, and staff to perform educational, promotional, and fund-raising functions relating to the Old Cahaba Capitol Site.

Also:

H. 527. To amend Sections 15-25-1, 15-25-3, 15-25-30, 15-25-31, and 15-25-39, Code of Alabama 1975, so as to provide that in criminal proceedings involving physical offenses against a child, the victim and witnesses be treated in the same manner as for certain children under the age of 16 involving sexual abuse, sexual offenses, and sexual exploitation, relating to testifying, use of electronic equipment, court appearances, and admissibility of certain evidentiary matters of a material nature.

Also:

H. 583. To regulate commercial telephone solicitation, to require the annual registration, licensing, and bonding of commercial telephone sellers and salespersons, to specify exemptions, to set license fees, to prescribe civil and criminal penalties for violations, to authorize administration and enforcement by the Attorney General, to authorize waiver of civil penalties or other claims or costs if the violator has previously made full restitution or reimbursement or paid actual damages to injured purchasers, to authorize settlement of claims and actions, to authorize deposit of civil penalties, settlement amounts, attorney's fees, and costs into the State General Fund and appropriations therefrom for deposit into a special revenue account together with other receipts in the Office of the Attorney General, to provide for a revolving fund for implementation and enforcement of this act, and for administration, investigation, and future civil and criminal prosecution.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 200. To make an appropriation for the support and maintenance of the Special Schools for Special Education for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been

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Mr. Speaker:

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H. 239. To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama Cattlemen's Association for the Children's Museum and to the Wiregrass Museum of Art to be used for educational purposes for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

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Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 812. To amend Section 3 and Section 4 of Act No. 93-190, H. 246 of the 1993 Regular Session (Acts 1993, p. 287), making supplemental appropriations to the Alabama Department of Economic and Community Affairs; to remove the condition that supplemental appropriations be made in anticipation of federal funds to be received from the Economic Stimulus Program of the President of the United States for the State Community Development Block Grant Program; and to repeal Section 6 of Act No. 93-190, H. 246 of the 1993 Regular Session (Acts 1993, p. 287), making the supplemental appropriations contingent upon receipt of the federal notice of funding from the Department of Housing and Urban Development for the Economic Stimulus Program.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 241. Relating to mental health and mental retardation; providing for the exercise of temporary custody of alleged mentally ill persons by law enforcement and community mental health officers at designated mental health facilities; authorizing the judge of probate to make a finding in order that the county might, with the approval of the county commission, adopt and be covered by the provisions of this act; and providing civil immunity for certain persons acting in good faith pursuant to the provisions of this act.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 91. To amend Section 40-25-18, Code of Alabama 1975, to allow county licensing and tax officials to levy an additional penalty on persons possessing untaxed tobacco products.

Also:

H. 487. To amend Sections 26-17-5, 26-17-6, 26-17-10, 26-17-12, 26-17-13, and 26-17-15, Code of Alabama 1975, the Uniform Parentage Act, and to add a new code section to the Uniform Parentage Act, to provide further for the procedures for the establishment of paternity by: (1) providing for the execution of affidavits of paternity; (2) creating a presumption of paternity upon execution of voluntary affidavits; (3) providing default judgments under specific circumstances; (4) providing further for genetic testing; (5) creating a rebuttable presumption of paternity where genetic testing results indicate a certain probability of paternity; (6) providing for the admission of genetic testing results unless objections are filed under certain procedures; (7) providing for full faith and credit to other states paternity acknowledgments and orders; and (8) establishing a hospital paternity acknowledgment program.

Also:

H. 491. To amend Section 17-4-153, Code of Alabama 1975, to provide further for the salary of each member of the Board of Registrars in each county.

Also:

H. 544. To amend Sections 8-24-1, 8-24-2, 8-24-3, 8-24-4, and 8-24-5, Code of Alabama 1975, relating to commission contracts between a sales representative and certain principals; to further provide for the definition of a principal; to provide that the terms of a contract between the principal and sales representative shall determine when a commission becomes due or in the absence of a contract, past practices between the parties or the prevailing custom and usage shall control; to provide that commissions due at the time of termination of a contract shall be paid within thirty days; to provide that a principal who fails to pay a commission when due shall be liable to the sales representative in a civil action for treble damages, attorney's fees, and court costs; and to provide that the provisions of this statute cannot be waived and that any remedy is cumulative and not exclusive.

Also:

H. 648. To amend Section 37-1-18, Code of Alabama 1975, which provides for an annual appropriation from the State General Fund to the Consumer's Utility Rate Hearing Fund to be used for the presentation of the case for the consumer in utility rate increase hearings before the Public Service Commission, so as to provide for the use of the Consumer Utility Rate Hearing Fund by the Attorney General and that the fund shall be under the Office of the Attorney General.

Also:

H. 748. To amend Section 23-1-50.1 of the Code of Alabama 1975, to further provide for the definition of road machinery and equipment to include

certain aircraft and automotive equipment transferred from the Department of Finance to the Department of Transportation, pursuant to Executive Order No. 12, dated December 21, 1993, in the Department of Transportation, Road Machinery and Equipment Management Program and Equipment Management Surplus Reserve Account.

Also:

H. 810. To provide for the installation of certain types of liquefied petroleum gas room heaters in certain residences and used manufactured homes under certain conditions.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill and House Joint Resolutions, to-wit:

H. 555. Relating to Limestone County; authorizing the Limestone County Commission to further regulate and license the operation of junkyards and prohibit certain accumulation and storage of junk, inoperable motor vehicles, and other litter within the unincorporated territory of the county; to provide that certain acts constitute a public nuisance and are unlawful; to provide certain exceptions; to provide civil remedies including actions to enjoin and abate conduct constituting a public nuisance; to provide that the county commission may regulate and establish requirements for issuing licenses to operate junkyards or store junk; and to provide for the annual license fee for the privilege of operating a junkyard in the unincorporated area of the county under certain conditions.

Also:

H.J.R. 355. DESIGNATING THE ALABAMA COMMISSION ON AGING AS THE LEAD AGENCY FOR THE EXAMINATION AND REVISION OF THE LONG-TERM CARE SYSTEM IN ALABAMA.

Also:

H.J.R. 279. MEMORIALIZING THE ALABAMA CONGRESSIONAL DELEGATION AND PRESIDENT CLINTON REGARDING THE PROPOSED AMENDMENT TO THE FEDERAL AVIATION ACT OF 1958.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL AND HOUSE JOINT RESOLUTIONS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill and the House Joint Resolutions, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 780. To provide for the offense of making false statements to obtain workers' compensation benefits.

McDOWELL LEE
Secretary

SENATE MESSAGE

MOTION TO CONCUR OFFERED

Representative Hooper offered the motion that the House concur in and adopt the Senate amendment to the bill, H. 780, said Senate amendment being as follows:

A BILL TO BE ENTITLED AN ACT

To provide for the offense of making false statements to obtain or deny workers' compensation benefits.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits is guilty of a Class C felony.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

On page 1, on line 13, delete "or denying workers' compensation benefits" and insert in lieu thereof: compensation, as defined in Section 25-5-1(1), as amended, for himself or herself or any other person.

On page 1, on lines 25 and 26, delete "or denying workers' compensation benefits" and insert in lieu thereof: compensation, as defined in Section 25-5-1(1), Code of Alabama 1975, as amended, for himself or herself or any other person.

MOTION IN WRITING OFFERED

Representative Gaines offered the following Motion in Writing relating to the bill, H. 780:

I move the previous question.

MOTION IN WRITING ADOPTED

And the Motion in Writing was adopted.

Yeas 57; Nays 35.

Yea:

Representatives Barnes, Beasley, Biddle, Burke, Carns, Carothers, Carter, Clay, Collins, Cosby, Cullins, Curry, Flowers, Freeman, Fuller, Gaines, Gaston, Gullatt, Hammett, Haney, Harper, Hawkins, Higginbotham, Hill, Hooper, Johnson, Knight (A), Kvalheim, Laird, Layson, Lindsey, Mathis, McClain, McDaniel, McKee, McMillan, Melton, Mikell, Morton, Newton (C), Parker (T), Payne, Penry, Petelos, Powell, Rockhold, Sanderford, Sanderson, Smith (C), Smith (R), Starkey, Turnham, Walker, Warren, White, Willis and Zoghby.

-57

Nay:

Representatives Anderson, Black (L), Black (M), Blakeney, Bowling, Box, Buskey, Cagle, Campbell, Clark (W), Crow, Dolbare, Drake, Ford, Goodwin, Hall (L), Harvey, Hilliard, Hogan, Holmes, Kennedy, Knight (J), Letson, McDowell, Millican, Morrow, Newton (D), Page, Parker (P), Perdue, Poole, Rogers (F), Rogers (J), Spratt and Thomas.

-35

MOTION TO CONCUR ADOPTED

The question was then on the motion offered by Representative Hooper that the House concur in and adopt the Senate amendment to the bill, H. 780, and the motion to concur was adopted.

Yeas 69; Nays 29.

Yea:

Mr. Speaker, Beasley, Biddle, Box, Bryant, Burke, Butler, Campbell, Carns, Carothers, Carter, Clay, Collins, Cosby, Cullins, Curry, Flowers, Freeman, Fuller, Gaines, Gaston, Gullatt, Hall (A), Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Holladay, Hooper, Johnson, Knight (A), Kvalheim, Laird, Layson, Lindsey, Mathis, McClain, McDaniel, McKee, McMillan, Mikell, Millican, Morton, Newton (C), Parker (P), Parker (T), Payne, Penry, Petelos, Powell, Rich, Rockhold, Sanderford, Sanderson, Smith (C), Smith (R), Starkey, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

-69

Nay:

Representatives Anderson, Barnes, Black (L), Black (M), Bowling, Buskey, Cagle, Clark (W), Crow, Dolbare, Drake, Ford, Goodwin, Hall (L), Hilliard, Hogan, Holley, Holmes, Kennedy, Knight (J), Letson, McDowell, Morrow, Newton (D), Page, Perdue, Rogers (F), Rogers (J) and Spratt.

-29

NOTICE IN WRITING FILED

Representative Campbell filed the following Notice in Writing:

Notice is hereby given that HB 780 was brought up and passed before approval of the Journal for the 27th Legislative Day. Said Notice to be spread upon the Journal for the 28th Legislative Day.

NOTICE IN WRITING FILED

Representative Buskey filed the following Notice in Writing:

A Senate Message, HB 780, was received prior to the approval of the House Journal.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has concurred in and adopted the Report of the Committee on

Conference on the disagreement of the two Houses on the House amendment to the Bill:

S. 280. To establish the "Alabama Boating Safety Reform Act of 1994"; to amend Section 32-5A-191, Code of Alabama 1975, to prohibit the operation of a vessel and certain other marine devices while under the influence of alcohol or controlled substances, and to provide for certain fines and penalties, parallel to the fines, penalties, and punishment for operating a motor vehicle on the public highways under the influence; to provide for powers of arrest without warrant of certain persons at the scene of boating accidents; to amend Section 32-5A-192, Code of Alabama 1975, to provide for the crime of homicide by vessel, and to provide for certain fines and penalties; to regulate the use of personal watercraft on the waters of this state and to provide for certain penalties; to provide for and require a boater safety certification and examination, and provide certain fees to cover the cost, collection, and reporting; to provide for certain reciprocal agreements; to provide authority to promulgate certain rules, and for certain penalties and fines for violations, including misdemeanor and felony punishment; to provide for and require certain personal flotation devices for all persons eight years and under, and penalties for violations; to amend Section 33-5-26 of the Code of Alabama 1975, to further regulate the towing of certain persons and to require certain observers or mirrors while towing certain persons, and to provide for penalties for violations; to prohibit reckless and careless operation of vessels, to require compliance with certain rules, and to provide for penalties for violations; to prohibit the obstruction of view of a vessel operator and to provide for penalties for violations; to require an emergency cut-off switch for certain vessels, and to provide other safety equipment for vessels; to provide for the establishment of speed restrictions; to prohibit mooring to or damaging certain signs and markers; to provide for the renewal, cancellation, suspension, and revocation of boater safety certifications and of vessel operating privileges, and for procedures to administer and implement penalties for violations; to provide for certain exceptions; to authorize the Commissioner of Conservation and Natural Resources to issue and enforce certain rules and regulations necessary to implement this act; to provide generally for criminal penalties, misdemeanors, and felonies for violations of this act; to provide for certain boating safety education in schools; and to repeal Section 33-5-24, Code of Alabama 1975, and other laws to the extent of a conflict with this act.

said Conference Report being in words and figures as follows:

REPORT OF CONFERENCE COMMITTEE

We, the Committee on Conference, appointed to reconcile the differences of the two houses concerning Senate Bill No. 280, have met in conference and have agreed to accept the attached amendment which is made a part of this report as is fully set out herein.

GERALD DIAL
BUTCH ELLIS

Conferees on the Part of the Senate

JACK BIDDLE, III
WILLIAM CLARK
TAYLOR HARPER

Conferees on the Part of the House

Delete Carothers Amendment No. 2 to the Substitute to the Substitute for S. B. 280, as Engrossed, Substituted, and Amended in its entirety and insert in lieu thereof the following:

On page 6, after line 16, insert a new subsection (b) as follows:

(b) In the case of a vessel or other marine device described in subsection (a) of this section, only where the law enforcement officer of the Department of Conservation and Natural Resources has prior to stopping a vessel probable cause to believe that the operator of the vessel is driving under the influence of alcohol or under the influence of a controlled substance in violation of this section, the law enforcement officer is authorized to administer and may test the operator, at the scene, by using a field breathalyzer or other approved device, as a screening device, to determine if the operator may be operating a vessel or device in violation of subsection (a) of this section. Refusal to submit to a field breathalyzer test or other approved testing device shall result in the same punishment as provided in Section 32-5A-192(c) for operators of motor vehicles on the state highways. No field breathalyzer test shall be administered where the operator is stopped for violations other than for Section 32-5A-191.

Redesignate subsequent subsections accordingly.

And said Bill, SB 280, together with the Report of the Committee on Conference, is herewith sent to the House for its consideration.

McDOWELL LEE
Secretary

SENATE MESSAGE

MOTION TO CONCUR AND ADOPT REPORT OF THE COMMITTEE ON CONFERENCE OFFERED

Representative Harper offered the motion that the House concur in and adopt the Report of the Committee on Conference on the disagreement of the two Houses on the House amendment to the bill, S. 280, said report being set out in the foregoing Message from the Senate.

SUBSTITUTE MOTION TO NON-CONCUR TABLED

On motion of Representative Harper, the substitute motion offered by Representative White that the House non-concur in the Report of the Committee on Conference on the disagreement of the two Houses on the House amendment to the bill, S. 280, was tabled.

Yeas 86; Nays 5.

Yea:

Mr. Speaker, Barnes, Beasley, Biddle, Black (L), Black (M), Bowling, Bryant, Burke, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Turnham, Venable, Walker, Williams and Willis.

-86

Nay:

Representatives Anderson, Letson, Warren, White and Zoghby.

- 5

REPORT OF THE COMMITTEE ON CONFERENCE ADOPTED

The question was then on the motion offered by Representative Harper that the House concur in and adopt the Report of the Committee on Conference on the disagreement of the two Houses on the House amendment to the bill, S. 280, and the motion to concur was adopted.

Yeas 94; Nays 5.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Powell, Rich, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turnham, Venable, Walker, Williams and Willis.

-94

Nay:

Representatives Haynes, Rockhold, Warren, White and Zoghby.

- 5

NOTICE IN WRITING FILED

Representative McDowell filed the following Notice in Writing:

A Senate Message S. 280 was received prior to the approval of the House Journal

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 540. To amend Section 9-11-32, Code of Alabama 1975, relating to the dates that hunting and fishing licenses are valid, so as to further provide for the dates or time period that certain hunting and fishing licenses are valid.

McDOWELL LEE
Secretary**MESSAGE FROM THE SENATE**

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 626. To authorize any district organized pursuant to Chapter 89 of Title 11 of the Code of Alabama 1975, to carry out one or more, but not all, of its authorized services through one or more corporations organized pursuant to this act; to provide for the incorporation of the corporations and the powers thereof and the election of the directors for the corporations and the management of their affairs; to provide for the incorporation by reference and applicability of the definitions contained in Section 11-89-1 of the Code of Alabama 1975, and the powers and other provisions contained in Sections 11-89-7 to 11-89-19, inclusive, of Chapter 89 of the Code of Alabama 1975 for the corporations; to provide for the duration and dissolution of the corporations; to provide for severability and to provide an effective date.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 299. To provide further for the reimbursement of health care providers by insurance companies, and to repeal Section 27-1-17 of the Code of Alabama 1975, relating to the payment of certain health and accident insurance claims.

McDOWELL LEE
Secretary

SENATE MESSAGE

MOTION TO CONCUR OFFERED

Representative Johnson offered the motion that the House concur in and adopt the Senate amendment to the bill, H. 299, said Senate amendment being as follows:

**A BILL
TO BE ENTITLED
AN ACT**

To provide further for the reimbursement of health care providers by insurance companies.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. All persons, firms, corporations, associations, health maintenance organizations, health insurance service, or preferred provider organizations, non-profit health service organizations, and any employer sponsored health benefit company providing health, accident, dental, or workmen's compensation insurance coverage, either directly or indirectly through an agent, shall reimburse health care providers, including physicians, dentists, pharmacists, podiatrists, chiropractors, optometrists, durable medical equipment and home care providers, or subscribers for covered services within 25 working days or receipt of a proper claim or invoice at the office of the insurer or its designated office.

Section 2. If a provider of insurance coverage fails to comply with Section 1, then interest shall be payable on the claim commencing on the 26th day of receipt of the claim at a rate of 1.5 percent per month or any part of a month thereof until the claim has been paid, without any further action by the provider being required except as provided in Section 3.

Section 3. This act does not apply to claims where there is a dispute regarding the legitimacy of the claim, and the company or agency does both of the following:

(1) Notifies the provider within 2 weeks of the receipt of the claim that the claim is in dispute, and specifies which items of the claim are in dispute.

(2) Pays any undisputed portion of the claim within 30 days of receipt of the claim and makes a timely, good faith effort to resolve differences.

Section 4. The insured, or health or dental plan beneficiary may assign reimbursement for health or dental care services directly to the provider of services. Health benefits include medical, pharmacy, podiatric, chiropractic, optometric, durable medical equipment and home care services. The company or agency, when authorized by the insured, or health or dental plan beneficiary, shall pay directly to the health care provider the amount of the claim, under the same criteria and payment schedule that would have been reimbursed directly to the contract provider, and any applicable interest. This amount only applies to assigned claims. Any company or agency making a payment to the insured, or health or dental plan beneficiary, after the rights of reimbursement have been assigned to the provider of services, shall be liable to the provider for the payment. If the company or agency fails to reimburse the provider in accordance with the terms of the provider contract as provided in this act, then the provider shall be entitled to recover in the circuit or district courts of this state from the company or agency responsible for the payment of the claim an amount equal to the value of such claim plus interest and a reasonable attorneys fee to be determined by the court.

Section 5. Nothing in this act shall be construed to limit any insurer, health maintenance organization, preferred provider organization, health care service corporation, or other third party payor from determining the scope of its benefits or services or any other terms of its group and/or individual insured, subscriber or enrollee contracts nor from negotiating contracts with licensed providers on reimbursement rates or any other lawful provisions, except that the contract providing coverage to an insured may not exclude the right of assignment of benefits to any provider at the same benefit rate as paid to a contract provider.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

On page 2, on line 4, delete the period and insert in lieu thereof: , and to except state administered health benefit plans.

On page 4, after line 16, insert the following new section and renumber all subsequent sections accordingly:

Section 6. This act shall not apply to any persons covered under a state administered health benefit plan.

SUBSTITUTE MOTION TO NON-CONCUR AND REQUEST COMMITTEE ON CONFERENCE BE APPOINTED TABLED

On motion of Representative Johnson, the substitute motion offered by Representative Barnes that the House non-concur in the Senate amendment to the bill, H. 299, and request the Speaker appoint a Committee on Conference on the disagreement of the two Houses, was tabled.

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Yeas 57; Nays 24.

Yea:

Mr. Speaker, Anderson, Beasley, Blakeney, Box, Bryant, Burke, Buskey, Cagle, Carothers, Carter, Clay, Collins, Cosby, Cullins, Dolbare, Flowers, Ford, Fuller, Gaines, Gaston, Goodwin, Hamilton, Hammett, Harvey, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Hooper, Johnson, Kvalheim, Laird, Layson, Mathis, McDowell, McMillan, Mikell, Millican, Morrow, Morton, Newton (C), Page, Parker (P), Parker (T), Penry, Powell, Rockhold, Rogers (F), Sanderson, Smith (C), Thomas, Venable, Williams and Willis.

-57

Nay:

Representatives Barnes, Biddle, Black (L), Black (M), Butler, Crow, Drake, Gullatt, Hall (L), Haney, Hawkins, Hilliard, Holmes, Knight (J), Lindsey, McKee, Melton, Newton (D), Payne, Perdue, Poole, Spratt, Turnham and Warren.

-24

MOTION IN WRITING OFFERED

Representative Carothers offered the following Motion in Writing relating to the bill, H. 299:

I move the previous question.

MOTION IN WRITING ADOPTED

And the Motion in Writing was adopted.

Yeas 39; Nays 34.

Yea:

Representatives Beasley, Burke, Carns, Carter, Cosby, Cullins, Ford, Fuller, Gaston, Hammett, Harper, Harvey, Hawkins, Haynes, Holladay, Holley, Holmes, Hooper, Johnson, Kvalheim, Laird, Layson, Mathis, McKee, McMillan, Mikell, Newton (C), Page, Parker (P), Parker (T), Penry, Powell, Rockhold, Starkey, Walker, Warren, White, Willis and Zoghby.

-39

Nay:

Representatives Barnes, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Butler, Cagle, Campbell, Crow, Curry, Drake, Freeman, Gaines, Hall (L), Hill, Hilliard, Hogan, Knight (J), McClain, McDowell, Newton (D), Payne, Perdue,

Petelos, Poole, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Spratt and Venable.

-34

MOTION TO CONCUR ADOPTED

The question was then on the motion offered by Representative Johnson that the House concur in and adopt the Senate amendment to the bill, H. 299, and the motion to concur was adopted.

Yeas 68; Nays 20.

Yea:

Mr. Speaker, Beasley, Black (M), Blakeney, Box, Burke, Buskey, Butler, Cagle, Carns, Carothers, Carter, Clay, Collins, Cosby, Cullins, Dolbare, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Hall (A), Hammett, Harper, Harvey, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight (A), Kvalheim, Laird, Layson, Lindsey, Mathis, McKee, McMillan, Mikell, Millican, Morrow, Newton (C), Page, Parker (P), Parker (T), Penry, Powell, Rockhold, Rogers (F), Sanderson, Smith (C), Spratt, Starkey, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

-68

Nay:

Representatives Barnes, Biddle, Black (L), Bryant, Curry, Drake, Haney, Hawkins, Knight (J), McDowell, Melton, Morton, Newton (D), Payne, Perdue, Petelos, Poole, Rich, Rogers (J) and Sanderford.

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NOTICE IN WRITING FILED

Representative McDowell filed the following Notice in Writing:

Notice is hereby given that H. 299 was brought up and passed before approval of the Journal for the 27th Legislative Day. Said Notice to be spread upon the Journal for the 28th Legislative Day.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 617. To amend Sections 41-9-550 and 41-9-553, Code of Alabama 1975; to provide for the quorum of the board of directors of the Alabama Women's

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28th Day**

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Hall of Fame; to allow meetings of the board to be held by telephone, provided that advance written notice is given all members of the board; and to provide for the annual appropriation made to the board.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 463. To provide for commemorative motor vehicle tags for certain educators; to appropriate certain fees for the tags to the Penny Trust Fund; to establish an advisory committee for the design of the tag; to provide that the cost and additional fees for the commemorative license tags be paid from the net proceeds to the Department of Corrections; and to provide that the extra fees spent on the commemorative license tags shall be a charitable deduction.

Also:

H. 584. To authorize the various municipal governing bodies individually or jointly with other municipalities to levy additional costs and fees on certain municipal cases and to provide for the distribution of the funds to construct, equip, and maintain a jail or jails or a court complex.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 258. To amend Section 34-30-22 of the Code of Alabama 1975, to provide for the qualifications for a licensed bachelor social worker.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Freeman, the House concurred in and adopted the Senate amendment to the bill, H. 258, said Senate amendment being as follows:

Amend H. 258 on page 2, line 29, as follows:

Delete the underlined language "1993" and insert in lieu thereof the new underlined language "1994".

Yeas 93; Nays 2.

Yea:

Mr. Speaker, Barnes, Biddle, Black (L), Black (M), Blakeney, Box, Bryant, Burke, Buskey, Butler, Cagle, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McMillan, Melton, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

-93

Nay:

Representatives Drake and McKee.

- 2

NOTICE IN WRITING FILED

Representative McDowell filed the following Notice in Writing:

A Senate Message - H. 258 was received prior to the approval of the House Journal.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bills and returns same herewith to the House:

H. 613. To amend Section 27-14-11.1, Code of Alabama 1975, relating to certain health insurer contracts and prohibiting any provision which denies or reduces benefits based on medicaid eligibility, so as to further define private insurers and to prohibit private insurers from denying enrollment to an individual based on medicaid eligibility.

Also:

H. 711. To provide for the enrollment of a child in a non-custodial parent's

group health plan by a custodial or non-custodial parent, the Medicaid agency, or other Title IV-D, or Title XIX, state agencies; to provide that employers shall withhold wages up to the maximum allowed by statute in order to pay the employee's share, if any, of premiums on the necessary health coverage; and to provide that a state agency shall be able to garnish wages or require withholding of amounts from state tax refunds to reimburse the state or custodial parent where a person has received third party payments, but has not paid these to the state agency or custodial parent when appropriate.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 2. To provide distinctive motor vehicle license tags or plates for members of the Ancient Arabic Order of Nobles of the Mystic Shrine for North America; providing for the fees for these tags or plates and for the disposition of the net proceeds from the fees; and providing for a delayed effective date.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Willis, the House concurred in and adopted the Senate amendment to the bill, H. 2, said Senate amendment being as follows:

A BILL TO BE ENTITLED AN ACT

To provide distinctive motor vehicle license tags or plates for members of the Ancient Arabic Order of Nobles of the Mystic Shrine for North America; providing for the fees for these tags or plates and for the distribution of the net proceeds from the fees; and providing for a delayed implementation date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) A member of the Ancient Arabic Order of Nobles of the Mystic Shrine for North America who is the owner of a motor vehicle and a resident of the state may be issued a distinctive license tag or plate bearing the words "The Ancient Arabic Order of Nobles of the Mystic Shrine" across the top portion of the tag or plate and bearing its logo between the county identification number and the actual license number. The member shall make application to the judge of probate or license commissioner, comply with the motor vehicle registra-

tion and licensing laws, pay the regular fees required by law for license tags or plates for private passenger or pleasure motor vehicles, and pay an additional fee of twenty-five dollars (\$25).

(b) The tags or plates shall be issued, printed, and processed like other distinctive and personalized tags and plates provided for in Chapter 6 of Title 32 of the Code of Alabama 1975. The tags or plates shall be valid for five years and may be replaced with either a conventional, personalized, or new "Ancient Arabic Order of Nobles of the Mystic Shrine" tags or plates. Payment of required license fees and taxes for the years during which a new tag or plate is not issued shall be evidenced as provided in Section 32-6-63 of the Code of Alabama 1975.

Section 2. The net proceeds of the additional revenues derived from sales of tags pursuant to this act, less administrative costs, including the cost of production of the tags, shall be distributed by the judge of probate or license commissioner to the Juvenile Health Care Board of the City of Piedmont, Alabama.

Section 3. The distinctive license plates or tags issued pursuant to this act shall not be transferable between motor vehicle owners, and in the event the owner of a vehicle bearing the distinctive plates sells, trades, exchanges, or otherwise disposes of the motor vehicle, the plates shall be retained by the owner to whom issued and returned to the judge of probate or license commissioner of the county, who shall receive and account for the tags or plates as provided in this section. In the event the owner acquires by purchase, trade, exchange, or otherwise a vehicle for which no standard plates have been issued during the current license period, the judge of probate or license commissioner of the county shall, upon being furnished by the owner proper certification of the acquisition of the vehicle and the payment of the motor vehicle license tax due upon the vehicle, authorize the transfer of the distinctive license plates or tags previously purchased by the owner to the vehicle, which plates or tags shall authorize the operation of the vehicle for the remainder of the then current license period. In the event the owner of the distinctive license plates or tags acquires by purchase, trade, exchange, or otherwise a vehicle for which standard plates have been issued during the current license year, the judge of probate or license commissioner shall, upon proper certification of the owner and upon delivery to the official of the standard plates previously issued for the vehicle, authorize the owner of the newly-acquired vehicle to place the distinctive license plates or tags previously purchased the vehicle and use the plates for the remainder of the then current license period. The notice of transfer of ownership shall be made of record by the judge of probate or the license commissioner.

Any person acquiring by purchase, trade, exchange, or otherwise any vehicle formerly bearing the distinctive plates may, upon certification of the fact to the judge of probate or license commissioner of the county and the payment of the fee now required by law, purchase standard replacement plates for the vehicle which shall authorize the operation of the vehicle by the new owner for the remainder of the license period.

Section 4. Upon termination of membership with the Ancient Arabic Order of Nobles of the Mystic Shrine, an applicant to whom a distinctive license plate was issued under Section 1 shall, within 30 days, return the plate to the judge of probate or the license commissioner of the county of the applicant's residence.

Section 5. If a distinctive license plate deteriorates to the point where inscriptions thereon are not discernible, the owner or lessee may obtain a replacement plate free of charge.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 7. This act shall become effective on the first day of the fourth month next following its passage and approval by the Governor, or upon its otherwise becoming a law.

Yeas 85; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Cagle, Campbell, Carns, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Hall (A), Hammett, Haney, Harper, Harvey, Hawkins, Higginbotham, Hill, Hilliard, Hogan, Holley, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, McClain, McDaniel, McDowell, McKee, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Turnham, Venable, Walker, Warren, White, Willis and Zoghby.

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**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 780. To provide for the offense of making false statements to obtain or deny workers' compensation benefits.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been

dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 540. To amend Section 9-11-32, Code of Alabama 1975, relating to the dates that hunting and fishing licenses are valid, so as to further provide for the dates or time period that certain hunting and fishing licenses are valid.

Also:

H. 626. To authorize any district organized pursuant to Chapter 89 of Title 11 of the Code of Alabama 1975, to carry out one or more, but not all, of its authorized services through one or more corporations organized pursuant to this act; to provide for the incorporation of the corporations and the powers thereof and the election of the directors for the corporations and the management of their affairs; to provide for the incorporation by reference and applicability of the definitions contained in Section 11-89-1 of the Code of Alabama 1975, and the powers and other provisions contained in Sections 11-89-7 to 11-89-19, inclusive, of Chapter 89 of the Code of Alabama 1975 for the corporations; to provide for the duration and dissolution of the corporations; to provide for severability and to provide an effective date.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

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H. 617. To amend Sections 41-9-550 and 41-9-553, Code of Alabama 1975; to provide for the quorum of the board of directors of the Alabama Women's Hall of Fame; to allow meetings of the board to be held by telephone, provided that advance written notice is given all members of the board; and to provide for the annual appropriation made to the board.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 851. Reopening the Employees' Retirement System to allow certain members of the system employed by employers participating in the system pursuant to Section 36-27-6, Code of Alabama 1975, to purchase credit in the system for the period of service for which they were once excluded from membership in the system; providing for payment of costs for credit for the service; and providing for a delayed effective date.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Thomas, the House concurred in and adopted the Senate amendment to the bill, H. 851, said Senate amendment being as follows:

**A BILL
TO BE ENTITLED
AN ACT**

Reopening the Employees' Retirement System to allow certain members of the system employed by employers participating in the system pursuant to Section 36-27-6, Code of Alabama 1975, to purchase credit in the system for the period of service for which they were once excluded from membership in the system;

providing for payment of costs for credit for the service; reopening the Employees' and Teachers' Retirement Systems to allow certain members of the systems an opportunity to purchase credit in the system for certain prior service rendered in a program in the office of a local district attorney which was financed by a federal grant; and providing for a delayed effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Any active and contributing member of the Employees' Retirement System who is an employee of an employer participating in the system pursuant to Section 36-27-6, Code of Alabama 1975, and whose current position was once excluded by the employer from participating in the system, may receive credit in the system for the period of full-time service for which his or her position was excluded by the employer from participating in the system, provided the member claiming the credit has been continuously employed by the employer since January 1, 1987, and the member performs and complies with the conditions prescribed in Section 2 of this act.

Section 2. A member of the Employees' Retirement System eligible to purchase credit in the system under Section 1 of this act shall receive the credit after satisfying the following conditions:

(1) Within one year of the effective date of this act, the member shall contribute to the Employees' Retirement System for each year of credit claimed the total amount which he or she would have contributed had he or she been allowed to contribute as an employee based on the earnable compensation received for each year of claimed service, together with eight percent interest compounded annually from the date of service to the date of payment. Likewise, the employer shall contribute to the system, the total amount of the employer's share of the contributions for each year of credit claimed that would have been required together with eight percent interest compounded annually from the date of service to the date of payment.

(2) The employer shall certify in writing to the Employees' Retirement System the dates of the period of full-time employment for which the member is claiming credit.

Section 3. An active and contributing member of the Employees' or Teachers' Retirement System who has been a member of the system for at least 10 years, may claim and purchase credit not to exceed three years in his or her respective retirement system for prior service rendered while employed in a program in the office of a local district attorney which was financed at the time the service was rendered by a federal grant if the member complies with the provisions set forth in Section 4 of this act.

Section 4. Each person eligible to claim and purchase the credit for service under Section 3 of this act shall be awarded creditable service under the Employees' Retirement System or Teachers' Retirement System provided he or she shall pay into the retirement system, prior to October 1, 1995, a lump sum equal to the percentage of his or her current annual earnable compensation, or final average compensation, whichever is greater, for each year of service credit purchased; the current annual earnable compensation or final average

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compensation, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation.

Section 5. This act shall become effective on October 1, 1994, upon its passage and approval by the Legislature or its otherwise becoming a law.

Amend H. 851 on page 3 by striking lines 17-27 and on page 4 by striking lines 1-2 and by inserting in lieu thereof the following:

(1) Each person eligible to claim and purchase the credit for service under Section 1 of this act shall be awarded creditable service under the Employees' Retirement System provided he or she shall pay into the retirement system, prior to October 1, 1995, a lump sum equal to the percentage of his or her current annual earnable compensation, or final average compensation, whichever is greater, for each year of service credit purchased; the current annual earnable compensation or final average compensation, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation.

Yeas 73; Nays 12.

Yea:

Mr. Speaker, Anderson, Black (L), Black (M), Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carothers, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Drake, Flowers, Fuller, Gaston, Goodwin, Gullatt, Hammett, Haney, Harvey, Haynes, Hill, Hilliard, Hogan, Holladay, Holmes, Johnson, Kennedy, Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McMillan, Melton, Millican, Morrow, Morton, Newton (D), Page, Penry, Perdue, Petelos, Poole, Rockhold, Rogers (F), Rogers (J), Sanderford, Smith (C), Spratt, Starkey, Thomas, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

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Nay:

Representatives Biddle, Carns, Curry, Hamilton, Hawkins, Holley, Knight (A), McKee, Mikell, Parker (P), Payne and Sanderson.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 718. To exempt public corporations formed under Article 9 of Chapter 50 of Title 11 of the Code of Alabama 1975, for the purpose of operating water,

sewer, gas, or electric systems from sales, use, and similar gross receipts taxes; to provide for a retroactive effective date; to repeal all laws and parts of laws in conflict herewith; to provide for the severability of the provisions of this act; and to provide an effective date for this act.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Penry, the House concurred in and adopted the Senate amendment to the bill, H. 718, said Senate amendment being as follows:

Amend House Bill 718, on Page 3, line 3, by inserting the following language after the word and punctuation "however,": that the provisions of this section shall not be construed to exempt any such corporation from the privilege or license tax levied by Alabama Code Section 40-21-82 or the excise tax levied by Alabama Code Section 40-21-102; and provided, further.

Yeas 96; Nays 0.

Yea:

Mr. Speaker, Anderson, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (W), Clay, Collins, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 100. Proposing an amendment to the Constitution of Alabama of 1901; to provide certain county ad valorem tax officials may participate in the Employees' Retirement System or other county retirement systems in lieu of participating in a supernumerary program or system; to make acts ineffective

which allow members of any of the Retirement Systems of Alabama to purchase credit toward retirement without paying the full actuarial cost; to make acts ineffective which provide a benefit under any of the Retirement Systems of Alabama which is not applicable to all members of the retirement system or fund for which the benefit is provided; to provide for termination of benefits for a member of any of the Retirement Systems of Alabama who is convicted of a felony related to service upon which the benefit is based; to require the Legislature to fully fund cost-of-living adjustments granted by law to members of any of the Retirement Systems of Alabama; to terminate participation in the retirement systems by certain private organizations; and to prohibit granting of service credit for service rendered to public and quasi-public organizations.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Harvey, the House concurred in and adopted the Senate amendment to the bill, H. 100, said Senate amendment being as follows:

**A BILL
TO BE ENTITLED
AN ACT**

Proposing an amendment to the Constitution of Alabama of 1901, to provide certain county ad valorem tax officials may participate in the Employees' Retirement System or other county retirement systems in lieu of participating in a supernumerary program or system.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

A county ad valorem tax official shall not assume a supernumerary office after the effective date of this amendment except as provided in this amendment. A person who, on the effective date of this amendment, is serving as a supernumerary official, or has made an election, or is otherwise entitled to participate in the supernumerary program provided by Title 40, Chapter 6, Code of Alabama 1975, may continue to serve or participate in the supernumerary program as provided therein.

Notwithstanding any provisions of this Constitution to the contrary including but not limited to Article IV, Section 98 as amended by Amendment No. 513, a county ad valorem tax official not electing to participate in a supernumerary

program or not eligible to participate in a supernumerary program shall participate in the Employees' Retirement System of Alabama or any successor retirement system thereto if the county served by the official is a county unit member of the Employees' Retirement System. Otherwise, the county ad valorem tax official shall participate in the county retirement system for employees of the county served by the official. Participation by a county ad valorem tax official in the county or state retirement system shall be upon the same terms and conditions provided by law for participation by a state or county employee in the system. Nothing in this amendment shall be construed as authorizing a person to participate in both the county ad valorem tax official supernumerary program and the Employees' Retirement System of Alabama or a county retirement system which is not a county unit participant under the Employees' Retirement System.

A county ad valorem tax official who, on the effective date of this amendment, is participating in the supernumerary program pursuant to Title 40, Chapter 6, Code of Alabama 1975, may irrevocably elect to withdraw from the supernumerary program and enroll in the Employees' Retirement System of Alabama or the county retirement system for employees of the county served by the official, if the county system is not a unit participant in the Employees' Retirement System, upon the terms and conditions provided by law or regulation governing the retirement system in which the official enrolls. The election shall be in a form prescribed by the board of control of the Employees Retirement System or the county retirement system which is not a county unit member of the Employees' Retirement system, and filed for record in the probate office of the county served by the official no later than one hundred eighty days following the effective date of this amendment.

For purposes of this amendment, the words "county ad valorem tax official" means an elected or appointed county tax assessor, tax collector, revenue commissioner, license commissioner or other county official whose duties include the assessment or collection of ad valorem taxes for the county, but do not include a judge of probate or an employee of the state.

Section 2. An election upon the proposed amendment shall be held at the next general, special, primary or constitutional amendment election held more than three months after final adjournment of the session of the Legislature at which this act is adopted. The election shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the general elections laws of this state.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor. The proclamation shall be published once a week for four successive weeks immediately preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office.

Yeas 82; Nays 6.

Yea:

Mr. Speaker, Biddle, Black (L), Black (M), Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Dolbare, Drake, Flowers, Freeman, Fuller, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Hill, Hilliard, Hogan, Holladay, Holmes, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Lindsey, Mathis, McClain, McDaniel, McDowell, McMillan, Melton, Mikell, Millican, Morrow, Morton, Page, Parker (T), Payne, Penry, Poole, Powell, Rockhold, Rogers (F), Sanderford, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

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Nay:

Representatives Curry, Gaines, Holley, McKee, Parker (P) and Sanderson.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Presiding Officer of the Senate having signed the following Senate Bill, your signature thereto is requested:

S. 280. To establish the "Alabama Boating Safety Reform Act of 1994"; to amend Section 32-5A-191, Code of Alabama 1975, to prohibit the operation of a vessel and certain other marine devices while under the influence of alcohol or controlled substances, and to provide for certain fines and penalties, parallel to the fines, penalties, and punishment for operating a motor vehicle on the public highways under the influence; to provide for powers of arrest without warrant of certain persons at the scene of boating accidents; to amend Section 32-5A-192, Code of Alabama 1975, to provide for the crime of homicide by vessel, and to provide for certain fines and penalties; to regulate the use of personal watercraft on the waters of this state and to provide for certain penalties; to provide for and require a boater safety certification for certain persons; to provide a certificate of exemption from examination for certain persons; to provide for an examination except driving skills, for operators of certain boats and vessels, and provide certain fees to cover the cost of application, collection, and reporting; to provide certain exemptions; to provide for issuance and use of duplicate certification identifications, and the surrender of the duplicates, or exemption; to provide for certain reciprocal agreements; to provide authority to promulgate certain rules, and for certain penalties and fines for violations, including misdemeanor and felony punishment; to provide for the use and exceptions of certain personal flotation devices and penalties for violations; to amend Section 33-5-26 of the Code of Alabama 1975, to further regulate the towing of certain persons and to require certain observers or mirrors while towing certain persons, and to provide for penalties for violations; to prohibit reckless and careless operation of vessels, to require compliance with certain rules, and to provide for penalties for violations;

to prohibit the obstruction of view of a vessel operator and to provide for penalties for violations; to require an emergency cut-off switch for certain vessels, and to provide other safety equipment for vessels; to provide for the establishment of speed restrictions; to prohibit mooring to or damaging certain signs and markers; to prohibit violations of the federal rules or regulations relating to the horsepower of the engines of the vessels; to provide for the renewal, cancellation, suspension, and revocation of boater safety certifications and of vessel operating privileges, and for procedures to administer and implement penalties for violations; to provide for certain exceptions; to authorize the Commissioner of Conservation and Natural Resources to issue and enforce certain rules and regulations necessary to implement this act; to provide generally for criminal penalties, misdemeanors, and felonies for violations of this act; to provide for certain boating safety education in schools; and to repeal Section 33-5-24, Code of Alabama 1975, and other laws to the extent of a conflict with this act.

McDOWELL LEE
Secretary

SIGNING OF SENATE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Message from the Senate.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 925. Relating to Dallas County; authorizing the county commission to impose an excise tax on persons, corporations, partnerships, companies, agencies, associations, trusts, estates, and other entities engaged in the business of selling, distributing, storing, or withdrawing from storage, gasoline and motor fuel in Dallas County in an amount not to exceed two cents (\$0.02) per gallon; to provide for the collection and payment of the taxes and to provide for the distribution of the funds derived therefrom; to authorize the county commission to make rules and regulations for the collection of the tax; to provide for the enforcement of this act; and to fix the penalty for the violation of this act.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Cosby, the House concurred in and adopted the Senate amendment to the bill, H. 925, said Senate amendment being as follows:

Page 2, line 7, delete: "and not in interstate commerce"

Page 2, line 8, following "trade" insert: ", but shall not apply to any transaction by the distributor in interstate commerce"

Page 3, line 10, following "refinery" insert: ", located in Dallas County,"

Page 5, line 12, delete "two" and insert therein: "three"

Page 6, line 14, delete "may" and insert therein: "it shall have the right itself, or its members or its agents to"

Page 6, line 20, following "act." insert therein: "Provided that collection of the tax imposed herein, by the State Department of Revenue, shall commence on the first day of the third month following the receipt of the resolution from the Dallas County Commission directing the Department to collect the tax."

Page 7, line 6, delete "25" and insert therein: "10"

Page 7, line 7, following "due" insert therein: ", along with interest calculated according to the rate(s) established under section 40-1-44 of the Code of Alabama 1975"

Page 8, line 7, following "which is" delete "be"

Yeas 94; Nays 0.

Yea:

Mr. Speaker, Barnes, Biddle, Black (L), Black (M), Bowling, Box, Bryant, Burke, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Spratt, Starkey, Thomas, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 474. Reopening the Employees' Retirement System of Alabama for a certain period of time to allow certain active members of the system to purchase credit under certain guidelines and conditions for prior service with the Alabama State Council on the Arts.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Hooper, the House concurred in and adopted the Senate amendment to the bill, H. 474, said Senate amendment being as follows:

A BILL TO BE ENTITLED AN ACT

Reopening the Employees' Retirement System of Alabama for a certain period of time to allow certain active members of the system to purchase credit under certain guidelines and conditions for prior service with the Alabama State Council on the Arts, and reopening the Employees' and Teachers' Retirement Systems to allow certain members of the systems an opportunity to purchase credit in the system for certain prior service rendered in a program in the office of a local district attorney which was financed by a federal grant and providing for a termination date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Any active and contributing member of the Employees' Retirement System may purchase credit in the Employees' Retirement System for prior service with the Alabama State Council on the Arts if the member has not received credit in the system for the same prior service and has not vested or otherwise become eligible to receive a retirement benefit by using the same prior service credit in another pension plan offered by the council.

Section 2. A member of the Employees' Retirement System who is eligible to purchase any prior service credit under Section 1 of this act shall receive the credit if he or she pays into the system on or before his or her date of retirement, an amount of five percent of the greater of the member's current annual earnable compensation or average final compensation, whichever is greater, as determined by the actuary for the system, for the entire period of prior service claimed, or any portion thereof, plus eight percent compounded interest thereon through the date of repayment, for each year of prior service purchased. Prior service may be purchased only in yearly increments of at least two years at a time. At the same time that the employee makes his or her payment for the prior service credit, he or she shall also remit to the Employees' Retirement System the employer's share of the cost for the prior service credit being purchased, plus eight percent compounded interest thereon through the date of repayment, as determined by the actuary for the system.

Section 3. An active and contributing member of the Employees' or Teachers' Retirement System who has been a member of the system for at least 10 years, may claim and purchase credit not to exceed three years in his or her respective retirement system for prior service rendered while employed in a program in the office of a local district attorney which was financed at the time the service was rendered by a federal grant if the member complies with the provisions set forth in Section 4 of this act.

Section 4. Each person eligible to claim and purchase the credit for service under Section 3 of this act shall be awarded creditable service under the Employees' Retirement System or Teachers' Retirement System provided he or she shall pay into the retirement system, prior to October 1, 1995, a lump sum equal to the percentage of his or her current annual earnable compensation, or final average compensation, whichever is greater, for each year of service credit purchased; the current annual earnable compensation or final average compensation, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation.

Section 5. This act shall become effective on October 1, 1994, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Yeas 76; Nays 14.

Yea:

Mr. Speaker, Barnes, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Butler, Cagle, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Drake, Flowers, Gaines, Gaston, Goodwin, Hamilton, Hammett, Haney, Hawkins, Hill, Hilliard, Hogan, Holmes, Hooper, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Millican, Morrow, Morton, Newton (D), Page, Parker (P), Parker (T), Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

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Nay:

Representatives Biddle, Campbell, Carns, Curry, Dolbare, Ford, Freeman, Hall (A), Haynes, Holley, Johnson, Mathis, Mikell and Payne.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 533. To provide members of the council or governing body of any Class 1 municipality with a certain additional expense allowance; to provide that at a certain time the expense allowance provided under this act and the expense allowances provided under Section 11-43-7.1, Code of Alabama 1975, shall be eligible for certain treatment both as to the determination of retirement benefits and allowances, and to the withholding of required contributions for membership in any pension or retirement system trust fund in which the members may participate.

McDOWELL LEE
Secretary

SENATE MESSAGE

MOTION TO CONCUR OFFERED

Representative Rogers (J) offered the motion that the House concur in and adopt the Senate amendment to the bill, H. 533, said Senate amendment being as follows:

A BILL TO BE ENTITLED AN ACT

To provide members of the council or governing body of any Class 1 municipality with a certain additional expense allowance; to provide that the expense allowance provided under this act and the expense allowances provided under Section 11-43-7.1, Code of Alabama 1975, shall be eligible for certain treatment both as to the determination of retirement benefits and allowances, and to the withholding of required contributions for membership in any pension or retirement system trust fund in which the members may participate.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. In addition to the authority granted by Section 11-43-7.1, Code of Alabama 1975, the council or other governing body of any Class 1 municipality may grant to the members of the council or governing body, an additional amount of money monthly for expenses incurred by the members when attending to the business of the municipality within its corporate limits. The maximum amount of the additional expense allowance shall be three hundred thirty-three dollars and thirty-three cents (\$333.33) per month.

Section 2. Notwithstanding all other provisions of law, any council or governing body member may elect in writing to have the expense allowances authorized by Section 1 of this act and Section 11-43-7.1, Code of Alabama 1975, become subject to the withholding of any employee contribution required to be paid into the trust fund of any pension or retirement system in which the member is eligible to participate. A council or governing body member may also elect in writing, within 90 days of the effective date of this act, to pay into the pension or retirement system trust fund the required contribution on any expense allowances previously received by the member during all or any portion of the three year

period prior to the member's payment election, together with interest at the rate of eight percent per annum thereon computed from the date of receipt of the allowance to the date of payment. If either or both of the elections is made by a member of the governing body or council, the expense allowances on which employee contributions are paid into the retirement plan trust fund shall be considered together with all salaries received by the member, from which the required employee contribution was likewise withheld and paid into the retirement trust fund, to determine the base amount on which any retirement benefits or allowances to which the council or governing body member may be entitled shall be computed as provided under the retirement system.

Section 3. The provisions of this act shall not be construed to prevent any member of the council or governing body from being reimbursed for actual expenses incurred by the member in connection with any travel on municipal business beyond the corporate limits of the municipality, and the amount incurred shall not accrue against the monetary amounts provided in Section 1 of this act, nor shall the reimbursement for the amount incurred be eligible for pension system withholding or be considered in determining pension or retirement benefits or allowances.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

SUBSTITUTE MOTION TO NON-CONCUR OFFERED

Representative Payne offered the substitute motion that the House non-concur in the Senate amendment to the bill, H. 533.

MOTION TO TABLE LOST

The motion offered by Representative Rogers (J) to table the substitute motion offered by Representative Payne to non-concur in the Senate amendment to the bill, H. 533, was lost.

Yeas 6; Nays 9.

Yea:

Representatives Barnes, Hilliard, McClain, Newton (D), Perdue and Rogers (J).

- 6

Nay:

Representatives Biddle, Carns, Curry, Gaines, Hawkins, Morton, Payne, Rogers (F) and Sanderson.

- 9

PRESENCE OF A QUORUM ASCERTAINED

The presence of a quorum was questioned, and the Speaker directed the Clerk to ascertain if there was a quorum present.

The Clerk reported that there was a quorum present.

SUBSTITUTE MOTION TO NON-CONCUR LOST

The question was then on the substitute motion offered by Representative Payne that the House non-concur in the Senate amendment to the bill, H. 533, and the motion to non-concur was lost.

Yeas 9; Nays 10.

Yea:

Representatives Biddle, Carns, Curry, Gaines, Hawkins, Morton, Payne, Rogers (F) and Sanderson.

- 9

Nay:

Representatives Barnes, Bryant, Haynes, Hilliard, McClain, McDowell, Newton (D), Perdue, Rogers (J) and Spratt.

-10

PRESENCE OF A QUORUM ASCERTAINED

The presence of a quorum was questioned, and the Speaker directed the Clerk to ascertain if there was a quorum present.

The Clerk reported that there was a quorum present.

MOTION TO CONCUR ADOPTED

The question was then on the motion offered by Representative Rogers (J) that the House concur in and adopt the Senate amendment to the bill, H. 533, and the motion to concur was adopted.

Yeas 11; Nays 10.

Yea:

Representatives Barnes, Bryant, Cagle, Hilliard, Kennedy, McClain, McDowell, Newton (D), Perdue, Rogers (J) and Spratt.

-11

Nay:

Representatives Biddle, Carns, Curry, Gaines, Hawkins, Morton, Payne, Petelos, Rogers (F) and Sanderson.

-10

PRESENCE OF A QUORUM ASCERTAINED

The presence of a quorum was questioned, and the Speaker directed the Clerk to ascertain if there was a quorum present.

The Clerk reported that there was a quorum present.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 299. To provide further for the reimbursement of health care providers by insurance companies, and to except state administered health benefit plans.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 534. To amend Section 40-23-4 of the Code of Alabama 1975, to provide further for certain sales tax exemptions.

McDOWELL LEE
Secretary

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 463. To provide for commemorative motor vehicle tags for certain educators; to appropriate certain fees for the tags to the Penny Trust Fund; to establish an advisory committee for the design of the tag; to provide that the cost and additional fees for the commemorative license tags be paid from the net proceeds to the Department of Corrections; and to provide that the extra fees spent on the commemorative license tags shall be a charitable deduction.

Also:

H. 584. To authorize the various municipal governing bodies individually or jointly with other municipalities to levy additional costs and fees on certain municipal cases and to provide for the distribution of the funds to construct, equip, and maintain a jail or jails or a court complex.

Also:

H. 613. To amend Section 27-14-11.1, Code of Alabama 1975, relating to certain health insurer contracts and prohibiting any provision which denies or reduces benefits based on medicaid eligibility, so as to further define private insurers and to prohibit private insurers from denying enrollment to an individual based on medicaid eligibility.

Also:

H. 711. To provide for the enrollment of a child in a non-custodial parent's group health plan by a custodial or non-custodial parent, the Medicaid agency, or other Title IV-D, or Title XIX, state agencies; to provide that employers shall withhold wages up to the maximum allowed by statute in order to pay the employee's share, if any, of premiums on the necessary health coverage; and to provide that a state agency shall be able to garnish wages or require withholding of amounts from state tax refunds to reimburse the state or custodial parent where a person has received third party payments, but has not paid these to the state agency or custodial parent when appropriate.

Also:

H. 258. To amend Section 34-30-22 of the Code of Alabama 1975, to provide for the qualifications for a licensed bachelor social worker.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 2. To provide distinctive motor vehicle license tags or plates for members of the Ancient Arabic Order of Nobles of the Mystic Shrine for North America; providing for the fees for these tags or plates and for the distribution of the net proceeds from the fees; and providing for a delayed implementation date.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 722. Proposing an amendment to Amendment No. 425 to the Constitution of Alabama of 1901, relating to the mode of adoption of proposed constitutional amendments affecting only one county, to clarify certain provisions of the amendment and to provide further for the mode of adopting amendments affecting only one county and to ratify and confirm constitutional amendments previously approved pursuant to Amendment No. 425.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 319. To grant to all peace officers, except constables whether state, county, municipal, or specially appointed under constitutional or statutory authority whose duties include the enforcement of state criminal laws certain immunity from civil liability given to all or any other state officers, specifically including sheriffs and their deputies.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Petelos, the House concurred in and adopted the Senate amendment to the bill, H. 319, said Senate amendment being as follows:

A BILL
TO BE ENTITLED
AN ACT

To grant to all peace officers except constables, whether state, county, municipal, or specially appointed under constitutional or statutory authority whose duties include the enforcement of state criminal laws the same tort liability immunity as given to all or any state officers not constitutional officers; to provide that such immunity shall extend only to such officers and their appointing authorities, and not to private employers of peace officers during their off duty hours; to require employers of off duty peace officers to have at least \$100,000 liability insurance in force to indemnify any acts of such off duty peace officer; and to provide that failure to have such insurance in force shall make individual owners or general partners or corporate officers of the employer liable for all acts taken by such peace officer in the line and scope of such private employment.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Every peace officer, except constables, who is employed or appointed pursuant to the constitution or statutes of this state, whether appointed or employed as such peace officer by the state of a county or municipality thereof, or by an agency or institution, corporate or otherwise, created pursuant to the constitution or laws of this state and authorized by the constitution or laws to appoint or employ police officers or other peace officers, and whose duties prescribed by law, or by the lawful terms of their employment or appointment, include the enforcement of, or the investigation and reporting of violations of, the criminal laws of this state, and who is empowered by the laws of this state to execute warrants, to arrest and to take into custody persons who violate, or who are lawfully charged by warrant, indictment, or other lawful process, with violations

of, the criminal laws of this state, shall at all times be deemed to be officers of this state, and as such shall have immunity from tort liability arising out of his or her conduct in performance of any discretionary function within the line and scope of his or her law enforcement duties.

Section 2. This act is intended to extend immunity only to peace officers and governmental units or agencies authorized to appoint peace officers. No immunity is extended hereby to any private non-governmental person or entity, including any private employer of a peace officer during that officer's off-duty hours.

Section 3. Every private, non-governmental person or entity who employs a peace officer during that officer's "off-duty" hours to perform any type of security work or to work while in the uniform of a peace officer shall have in force at least \$100,000 of liability insurance, which insurance must indemnify for acts the "off-duty" peace officer takes within the line and scope of the private employment. The failure to have in force the insurance herein required shall make every individual employer, every general partner of a partnership employer, every member of an unincorporated association employer, and every officer of a corporate employer individually liable for all acts taken by an "off-duty" peace officer within the line and scope of the private employment.

Section 4. The provisions of this act shall supersede all laws which are contrary to or inconsistent herewith.

Section 5. The holding by any court of competent jurisdiction that any provision, clause or phrase of this act is invalid for any reason shall not affect the validity of any remaining portions hereof.

Section 6. This act shall become effective upon the approval hereof by the Governor, or its otherwise becoming a law.

Yeas 87; Nays 0.

Yea:

Mr. Speaker, Anderson, Barnes, Biddle, Black (L), Black (M), Blakeney, Box, Bryant, Burke, Buskey, Butler, Cagle, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Haney, Harvey, Hawkins, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, McClain, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turnham, Walker, Warren, Williams, Willis and Zoghby.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 423. To amend Section 11-47-190, Code of Alabama 1975, relating to liability of municipalities to grant immunity from lawsuit to municipalities when the municipality or its employees, officers, or agents are performing in a governmental or discretionary function.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative McDowell, the House concurred in and adopted the Senate amendment to the bill, H. 423, said Senate amendment being as follows:

**A BILL
TO BE ENTITLED
AN ACT**

To amend Section 11-47-190 of the Code of Alabama 1947 respecting tort liability judgments against municipalities.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 11-47-190 of the Code of Alabama, 1975, is hereby amended to read as follows:

"Section 11-47-190. When municipality liable; joint liability of other persons or corporations.

No city or town shall be liable for damages for injury done to or wrong suffered by any person or corporation, unless such injury or wrong was done or suffered through the neglect, carelessness or unskillfulness of some agent, officer or employee of the municipality engaged in work therefore and while acting in the line of his or her duty, or unless the said injury or wrong was done or suffered through the neglect or carelessness or failure to remedy some defect in the streets, alleys, public ways or buildings after the same had been called to the attention of the council or other governing body or after the same had existed for such an unreasonable length of time as to raise a presumption of knowledge of such defect on the part of the council or other governing body and whenever the city or town shall be made liable for damages by reason of the unauthorized or wrongful acts or negligence, carelessness or unskillfulness of any person or corporation, then such person or corporation shall be liable to an action on the

same account by the party so injured. However, no recovery may be had under any judgment or combination of judgments, whether direct or by way of indemnity under Section 11-47-24, or otherwise, arising out of a single occurrence, against a municipality, and/or any officer or officers, or employee or employees, or agents thereof, in excess of a total \$100,000 per injured person up to a maximum of \$300,000 per single occurrence, the limits set out the provisions of Section 11-93-2 notwithstanding."

Section 2. The holding by any court of competent jurisdiction that any phrase or provision or other part of this act is invalid shall not affect the validity of those parts remaining.

Section 3. This act shall become effective upon its approval by the Governor or its otherwise becoming a law.

Yeas 85; Nays 2.

Yea:

Mr. Speaker, Anderson, Barnes, Biddle, Black (L), Blakeney, Bowling, Bryant, Burke, Buskey, Butler, Cagle, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaston, Goodwin, Gullatt, Hall (A), Hammett, Harvey, Hawkins, Haynes, Hill, Hilliard, Hogan, Holmes, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Millican, Morrow, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turnham, Venable, Walker, Warren, Williams, Willis and Zoghby.

-85

Nay:

Representatives Holladay and Holley.

- 2

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 440. To amend Section 36-21-8, Code of Alabama 1975, relating to certain law enforcement officers permitted to retain their badge and pistol as part of retirement benefits, to include certain law enforcement officers who are employees of the Alabama Criminal Justice Information Center.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 490. To amend Section 11-52-3 of the Code of Alabama 1975, relating to planning commission in Class 1 municipalities, to provide further for the compensation for meetings attended by the appointed members of the planning commission of Class 1 municipalities, who are neither elected officials nor employees of the municipality; and to provide an effective date of the act.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Hilliard, the House concurred in and adopted the Senate amendment to the bill, H. 490, said Senate amendment being as follows:

Amend House Bill 490, on Page 3, Line 26, after the word "section," by inserting the following: "upon adoption of a resolution by the city council approving the act adding this clause,"

Yeas 79; Nays 3.

Yea:

Mr. Speaker, Anderson, Barnes, Biddle, Black (L), Black (M), Bryant, Burke, Buskey, Butler, Cagle, Carter, Clark (W), Clay, Collins, Cosby, Crow, Cullins, Dolbare, Drake, Flowers, Ford, Freeman, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Hawkins, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Penry, Perdue, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Smith (C), Spratt, Starkey, Thomas, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

-79

Nay:

Representatives Cams, Curry and Payne.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has amended as therein shown and, as amended, has passed the following House Bill and returns same herewith to the House:

H. 16. To amend Sections 11-58-1, 11-58-2, 11-58-3, 11-58-4, 11-58-7, 11-58-12, and 11-58-13 of the Code of Alabama 1975, relating to the incorporation of municipal medical clinic boards to operate municipal medical clinics, so as to authorize counties to incorporate county medical clinic boards to operate county medical clinics, and to define county medical clinics as nonprofit rural health clinics.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Hall (A), the House concurred in and adopted the Senate amendment to the bill, H. 16, said Senate amendment being as follows:

**A BILL
TO BE ENTITLED
AN ACT**

To amend Sections 11-58-1, 11-58-2, 11-58-3, 11-58-4, 11-58-7, 11-58-12, and 11-58-13 of the Code of Alabama 1975, relating to the incorporation of municipal medical clinic boards to operate municipal medical clinics, so as to authorize counties to incorporate county medical clinic boards to operate county medical clinics.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 11-58-1, 11-58-2, 11-58-3, 11-58-4, 11-58-7, 11-58-12, and 11-58-13 of the Code of Alabama 1975, are amended to read as follows:

"§11-58-1.

"(a) When used in this chapter, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

"(1) CLINICAL FACILITIES. Real property for the location or better utilization of a medical clinic, buildings, parking areas, garages, storage facilities, outbuildings, machinery, equipment, furniture, and fixtures useful or desirable in the operation of a medical clinic.

"(2) DOMICILIARY CARE FACILITY. Homes for the aged, intermediate institutions, and related institutions, whose primary purpose is to furnish room,

board, laundry, personal care, and other nonmedical services, regardless of what it may be named or called, for not less than 24 hours in any week to three or more individuals not related by blood or marriage to the owner ~~and/or~~ or administrator. This kind of care implies sheltered protection and supervised environment for persons, who because of age or disabilities, are incapable of living independently in their own homes or a commercial board and room situation, yet who do not require the medical and nursing services provided in a nursing home. In these facilities, there might be available temporarily and incidentally the same type of limited medical attention as an individual would receive if he or she were living in his or her own home.

"(3) MEDICAL CLINIC. Any one or more of buildings or facilities operated by a county or municipal medical clinic board which serve to promote the public health, either by providing places for the diagnosis, treatment, or cure of sick or injured persons or for research with respect to any of the foregoing, including, without limiting the generality of the foregoing, hospitals, sanitoriums, nursing homes, offices for persons engaged in the diagnosis, treatment or cure of sick and injured persons, buildings to house or service equipment used for the diagnosis or treatment of sick or injured persons or the records of ~~such~~ the diagnosis, ~~or~~ treatment, or research with respect to any of the foregoing and hotels and motels intended primarily for use by patients and relatives and attendants of patients or patrons of any medical clinic, as well as domiciliary facilities so long as any ~~such~~ the domiciliary facility is required to be approved or licensed by any federal, state, or local government agency having jurisdiction in the planning or operation of health care facilities, or is owned or operated in conjunction with any nursing home. ~~Such domiciliary~~ Domiciliary facilities shall not, ~~however,~~ be exempt from ad valorem taxation.

(4) Medical Clinic Board. A corporation formed pursuant to this chapter for the purpose of acquiring and operating a county or municipal medical clinic."

"§11-58-2.

"(a) The purpose of this chapter is to provide for the incorporation of medical clinic boards as public agencies and instrumentalities of the state of Alabama to promote the acquisition of health facilities in order to promote the public health of the people of Alabama and also to promote the acquisition of certain other facilities for the housing and care of elderly persons.

"(b) Whenever any number of natural persons, not less than three, shall file with the governing body of any county or municipality in this state an application in writing for authority to incorporate a public corporation as a medical clinic board for the purpose of acquiring, owning, leasing, and disposing of one or more medical clinics and clinical facilities and it shall be made to appear to such the governing body that each of said the persons is a duly qualified elector of and owner of property in said the municipality, or in the county in areas outside of municipalities located in the county, the governing body of said municipality shall consider such the application. If such the governing body approves such the application, it shall adopt a resolution, which shall be duly entered upon the minutes of such the governing body, wherein it shall be declared declaring that it is wise, expedient, and necessary that such a corporation be formed and that the persons filing said

~~the~~ application shall be authorized to ~~proceed to form such the~~ corporation. Upon the adoption of ~~such the~~ resolution, the said persons who filed ~~such the~~ application shall proceed to organize ~~such the~~ corporation by executing and filing for record in the office of the judge of probate of the county, or in the office of the judge of probate of one or more of the counties in which ~~such~~ any municipality is located a certificate of incorporation as provided in this chapter.

~~"No corporation shall be formed under this chapter unless the application provided for in this subsection shall have been made and unless the resolution provided for in this subsection shall have been adopted."~~

"(c) The granting of authority for the incorporation of one medical clinic board shall not preclude the granting of authority by the governing body of any municipality or county for the incorporation of other ~~such~~ medical clinic boards; ~~provided, that such other.~~ Other medical clinic boards seeking incorporation shall be required to adopt a name or designation sufficient to distinguish them from any existing medical clinic board theretofore incorporated."

"§11-58-3.

"(a) The certificate of incorporation of any corporation organized under this chapter shall state:

"(1) The name of the corporation, which shall be a name indicating the purpose for which the corporation is organized [e.g., 'The Medical Clinic Board for the (County) (City) or (Town) of _____'];

"(2) The location of its principal office and the post office address thereof;

"(3) The period for the duration of the corporation. (# If the duration is to be perpetual, this fact should be stated);

"(4) The objects for which the corporation is organized; ~~and.~~

"(5) Any other provisions not contrary to law which the incorporators may choose to insert for the regulation and conduct of the affairs of the corporation.

"(b) The certificate of incorporation shall be acknowledged before an officer authorized by the laws of this state to take acknowledgment of deeds. When so acknowledged, the certificate shall be filed in the office of the judge of probate of the county, or one of the counties in which ~~such~~ any municipality is located, and ~~said the~~ judge of probate shall ~~immediately forthwith file and record such the~~ certificate ~~and record the same.~~ Thereupon the applicants shall constitute a corporation under the name stated in the certificate of incorporation."

"§11-58-4.

"Each corporation formed under this chapter shall have a board of directors which shall constitute the governing body of the corporation, ~~which board shall consist consisting of three members who shall serve without compensation,~~ except that they shall be reimbursed for actual expenses incurred in ~~and about~~ the performance of their duties under this chapter and, at the discretion of the board of

directors, they may be paid a director's fee of ~~\$10.00~~ ten dollars (\$10) for each director's meeting attended by them not to exceed a total of ~~\$120.00~~ one hundred twenty dollars (\$120) per member per year. No member of the board ~~of directors~~ shall be an officer of the municipality or county. The directors of the corporation shall be elected by the governing body of the respective municipality or county and they shall be so elected that they shall hold office for staggered terms. The first term of office of one director shall be two years, of another director shall be four years, and of a third director shall be six years, as shall be designated at the time of their election. Thereafter the term of office of each director shall be six years."

"§11-58-5.

"Each corporation formed under this chapter shall have the following powers, together with all the powers incidental thereto or necessary to the discharge thereof in corporate form:

"(1) To have succession by its corporate name for the period specified in the certificate of incorporation (which may be in perpetuity) unless sooner dissolved as provided in this chapter;

"(2) To sue and be sued and prosecute and defend civil actions in any court having jurisdiction of the subject matter and of the parties;

"(3) To have and use a corporate seal and to alter ~~the same~~ it at pleasure;

"(4) To acquire, whether by purchase, exchange, lease, construction, or otherwise one or more medical clinics and any necessary or desirable clinical facilities; ~~provided, that any such~~

"a. Any municipal medical clinic shall be located either within the corporate limits of the municipality or within 15 miles of such the corporate limits, but not within the corporate limits of any other municipality and not within the or police jurisdiction of any other municipality, unless such the other municipality shall by resolution adopted by its governing body consent to such the location within its police jurisdiction; provided further, that no.

"b. A county medical clinic shall be located within the county in which it is incorporated.

"c. No municipal or county medical clinic shall be located outside of the county in which the board is incorporated, unless the governing body of such the other county by resolution consents to such the location within its boundaries.

"(5) To improve, enlarge, maintain, equip, and furnish one or more medical clinics and any necessary or desirable clinical facilities.

"(6) To lease to others one or more medical clinics or parts thereof of clinics and any clinical facilities, and to charge and collect rent therefor, and to terminate any such lease upon the failure of the lessee to comply with any of the lease obligations thereof, and to grant options to renew or extend any such lease upon such terms and conditions as the board of directors may determine; ~~provided, that~~ no. No lease shall extend beyond the last maturity of any bonds issued by the medical clinic board or 60 years from the date of the lease, whichever is the longer; and no option to renew shall permit the extension of any lease beyond such that period.

"(7) To sell, exchange and convey, to contract to sell, exchange or convey, and to grant options to any lessee to acquire any medical clinic and any clinical facilities and any or all of its properties whenever its board of directors ~~shall find any such action finds it~~ to be in furtherance of the purpose for which the corporation was organized;

"(8) To borrow money and to issue its bonds for the purpose of carrying out any of its powers;

"(9) To mortgage and pledge any one or more of its medical clinics and any or all of its clinical facilities or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues, rentals, and receipts therefrom or from any part thereof as security for the payment of the principal and interest on any bonds ~~so~~ issued and any agreements made in connection therewith;

"(10) To enter into contracts and agreements or to do any act necessary for or incidental to the performance of the duties and the execution of its powers under this chapter;

"(11) To accept gifts, ~~or~~ money, or property, including one or more medical clinics and clinical facilities, from any source whatsoever, subject to such any conditions as the board of directors ~~may approve; approves.~~

"(12) To appoint and employ such those officers and agents, including attorneys, as its business ~~may require; requires.~~

"(13) To provide for such any insurance as its board of directors ~~may deem deems~~ advisable."

"§11-58-7.

"(a) All bonds issued by a corporation organized under authority of this chapter shall be solely and exclusively obligations of the corporation and shall not create an obligation or debt of any municipality or county. No county or municipality shall pledge its faith or credit for the payment of any debt incurred or bonds issued by such the corporation.

"(b) ~~Such bonds~~ Bonds may be executed and delivered at any time and from time to time, may be in such the form and denominations, may be of such the tenor, may be in registered or bearer form, either as to principal or interest or both, may be payable in such installments and at such a time or times, not exceeding 40

years from their issuance date, may be payable at such a place or places, may bear interest at such a rate or rates payable at such a place or places and evidenced in such a manner, and may contain such provisions not inconsistent with this chapter as may be provided by resolution of its board of directors. ~~The bonds issued by any corporation organized under this chapter~~ Bonds issued shall be signed by the chairman chair of its board of directors or other chief executive officer and attested by its secretary, and the seal of such the corporation shall be affixed thereto, but a A facsimile signature of one, but not both, of such officers corporate officer may be impressed or printed on any bonds in lieu of the a manual signature of such officer. Any interest coupon applicable to the bonds of such the corporation shall be signed by the chairman chair of the board of directors or other chief executive officer, but a facsimile of such the signature may be impressed or printed on any such interest coupon in lieu of his manually signing the coupon.

"(c) Any bonds issued under the authority of this chapter may be sold at public or private sale in such a manner and from time to time as may be determined by the board of directors to be most advantageous, ~~and the~~. The corporation may pay all expenses, premiums and commissions which its board of directors ~~may deem~~ deems necessary or advantageous in connection with the authorization, sale, and issuance ~~thereof~~ of its bonds.

"(d) All bonds issued under the authority of this chapter and all applicable interest coupons ~~applicable thereto~~ shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

"(e) Whenever the principal of and interest on all bonds of such a corporation payable from the revenues derived from the operation of one or more medical clinics owned by such the corporation shall have been paid in full, ~~then the its~~ board of directors ~~of the corporation~~ may by resolution determine that the purposes for which the corporation was formed have been substantially complied with, and the board of directors ~~of the corporation~~ shall thereupon execute and file for record in the office of the judge of probate of the county in which the corporation is organized a certificate of dissolution reciting such those facts and declaring the corporation to be dissolved. ~~Such~~ The certificate of dissolution shall be executed under the corporate seal of the corporation. Upon the filing of such the certificate of dissolution, the corporation shall stand dissolved, and title to all funds and properties owned by it at the time of such dissolution shall vest in and be delivered to the county or municipality, and possession of such funds and properties shall forthwith be delivered to such municipality. The dissolution of one or more corporations under ~~the provisions of~~ this chapter shall not cause the dissolution of other such existing corporations, already incorporated nor preclude the subsequent formation hereunder of other corporations."

"§11-58-12.

"(a) ~~Each Any~~ county and any incorporated city and town ~~is hereby authorized to may transfer and convey to a its county or municipal medical clinic board, as the case may be, that is which shall have been duly incorporated with the approval of the governing body of such municipality pursuant to this chapter, as amended,~~ any property that may, immediately preceding such the conveyance, have been owned by such the county or municipality, including medical clinics and clinical facilities, hospitals and hospital facilities, and assets and any land used or

useable for medical clinic or hospital purposes, whether or not ~~such~~ the property is necessary for the conduct of the governmental or other public functions of ~~such~~ the county or municipality; ~~provided, that such~~. A transfer or conveyance of property shall have been first authorized prior authorization by resolution duly adopted by the governing body of such the county, respecting county medical clinics, or the municipality prior to the transfer and conveyance and that such. The resolution shall have been published one time, at least five days before such a transfer or conveyance is consummated, in a newspaper published in such the county, respecting county medical clinics, or the municipality, regarding municipal medical clinics. ~~or if~~ If no newspaper is then published in the municipality, the resolution shall be published in a newspaper published or circulated in the county in which such the municipality is located. Such A transfer or conveyance may be made with or without the payment of monetary or other consideration therefor.

"(b) The foregoing authorization shall apply to any hospital, hospital assets, or other property, tangible or intangible, received by an incorporated city or town upon the dissolution of any hospital building authority incorporated under the ~~provisions of sections 22-21-130 through 22-21-155.~~"

"§11-58-13.

"(a) Whenever the principal of and interest on all bonds of ~~such~~ a corporation payable from the revenues derived from the operation of one or more medical clinics owned by ~~such the~~ corporation ~~shall have been paid in full, then the its~~ board of directors of the corporation may, by resolution, determine that the purposes for which the corporation was formed have been substantially complied with, and ~~the board of directors of the corporation~~ shall thereupon execute and file for record in the office of the judge of probate of the county in which the corporation is organized a certificate of dissolution, reciting ~~such~~ those facts and declaring the corporation to be dissolved. ~~Such~~ The certificate of dissolution shall be executed under the corporate seal of the corporation.

"(b) Upon the filing of ~~such the~~ certificate of dissolution, the corporation shall stand dissolved, title to all funds and properties owned by it at the time of ~~such~~ dissolution shall vest in the county or municipality, and possession of ~~such the~~ funds and properties shall ~~forthwith~~ be immediately delivered to ~~such the~~ county or municipality.

"(c) The dissolution of one or more corporations under ~~the provisions of this chapter~~ shall not cause the dissolution of other ~~such existing~~ corporations, ~~already incorporated~~ nor preclude the subsequent formation under this chapter of other corporations."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Yeas 88; Nays 1.

Yea:

Mr. Speaker, Anderson, Barnes, Biddle, Black (L), Black (M), Blakeney, Bowling, Bryant, Burke, Buskey, Butler, Cagle, Carns, Carothers, Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Freeman, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harvey, Hawkins, Hill, Hilliard, Hogan, Holladay, Holley, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Starkey, Thomas, Turnham, Venable, Walker, Warren, White, Williams, Willis and Zoghby.

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Nay:

Representative Spratt.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has originated and adopted the following Senate Joint Resolution and sends same herewith to the House for its consideration:

By Senators Denton, Amari, Bailey, Barron, Bedsole, Bolling, Campbell, Corbett, deGraffenried, Dial, Dixon, Ellis, Escott-Russell, Figures, Floyd, Foshee, Ghee, Hale, Hill, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Sanders, Smith (B), Smith (J), Underwood, Waggoner, Wilson, and Windom:

S.J.R. 145. RECOGNIZING MAC PARSONS OF HUEYTOWN FOR OUTSTANDING SERVICE TO THE STATE OF ALABAMA.

WHEREAS, in his first elective office, our colleague, Mac Parsons of Hueytown, joined the State Legislature as a member of the Alabama Senate from Jefferson County for the 1979-1983 term; and

WHEREAS, Senator Parsons, since that time, has been faithful to his promise, "I shall return," and is currently serving his fourth consecutive term, having most ably represented his Jefferson County constituents, and in the best interest of the State of Alabama, for the past 16 years; and

WHEREAS, during his legislative tenure, Senator Parsons has provided outstanding service and leadership as Chairman of the Education and the Judiciary/Civil Committees; Vice Chairman of the Rules and Local Legislation No. 2 Committees; as a member of such other committees as Judiciary, Governmental Affairs, Business and Labor Relations, Consumer Affairs and Economic Affairs; and, by appointment, on a number of interim committees; and

WHEREAS, Mr. Parsons, who has chosen not to seek election to a fifth legislative term, is a graduate of the Birmingham School of Law, and a practicing attorney; he also is a Mason, and a member of North Highlands Baptist Church, Bessemer Chamber of Commerce, and the Hueytown Quarterback Club, as well as a number of professional associations, and is a former member of the United States Army Reserve; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend our friend and colleague, Mac Parsons, for outstanding service to the Alabama Legislature and the State of Alabama for the past sixteen years, and do further direct that he receive a copy of this resolution of sincere regard, with best wishes for continuing success in all future pursuits and endeavors.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Biddle, the rules were suspended, and the House concurred in and adopted the resolution, S.J.R. 145, set out in the foregoing Message from the Senate.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has originated and adopted the following Senate Joint Resolutions and sends same herewith to the House for its consideration:

By Senator Dial:

S.J.R. 146. COMMENDING DR. SARA CREWS FINLEY, RECIPIENT OF THE 1994 DISTINGUISHED ALUMNA AWARD OF THE UNIVERSITY OF ALABAMA.

Also:

By Senators Dial and Hill:

S.J.R. 147. RECOGNIZING THE 25TH ANNIVERSARY OF THE TALLADEGA SUPERSPEEDWAY, AND MR. WILLIAM H. G. FRANCE.

McDOWELL LEE
Secretary

SENATE MESSAGE

On motion of Representative Freeman, the rules were suspended, and the House concurred in and adopted the resolution, S.J.R. 146, the title of which is set out in the foregoing Message from the Senate.

Also:

On motion of Representative Haynes, the rules were suspended, and the House concurred in and adopted the resolution, S.J.R. 147, the title of which is set out in the foregoing Message from the Senate.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 486. To create and establish the Alabama High School Legislative Leadership Academy at the University of South Alabama.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has originated and adopted the following Senate Joint Resolution and sends same herewith to the House for its consideration:

By Senator Horn:

S.J.R. 10. DECLARING AN EMERGENCY IN REGARD TO FUNDING FROM THE ALABAMA SPECIAL EDUCATIONAL TRUST FUND FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1995.

WHEREAS, the Legislature hereby determines pursuant to Act 88-981 that an emergency exists in regard to funding from the Alabama Special Educational Trust Fund:

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE, BOTH HOUSES THEREOF CONCURRING, That the sum of \$16,000,000 shall be withdrawn from the Proration Prevention Account and shall be transferred to the Alabama Special Educational Trust Fund on or after October 1, 1994, to be available for appropriation by the Legislature for the fiscal year ending September 30, 1995.

BE IT FURTHER RESOLVED, That this resolution shall become effective immediately upon its passage by the Legislature and approval by the Governor or upon its otherwise becoming a law.

McDOWELL LEE
Secretary

SENATE MESSAGE

MOTION TO SUSPEND RULES AND ADOPT OFFERED

Representative Harper offered the motion to suspend the rules and adopt the resolution, S.J.R. 10.

DIVISION OF THE QUESTION

Representative Dolbare called for a Division of the Question, and the call was sustained.

MOTION TO SUSPEND RULES ADOPTED

The question was then on the motion offered by Representative Harper to suspend the rules in order to take up for immediate consideration the resolution, S.J.R. 10, and the motion was adopted.

RESOLUTION ADOPTED

On motion of Representative Harper, the resolution, S.J.R. 10, was adopted.

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 336. To propose a constitutional amendment to amend Sections 6.17 and 6.18 of Amendment 328 of the Constitution of Alabama of 1901, establishing the Judicial Inquiry Commission and the Court of the Judiciary, to provide that the District Judges' Association shall appoint two district judges to serve as members of the Judicial Inquiry Commission and Court of the Judiciary.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 719. To repeal Section 40-21-57, Code of Alabama 1975, relating to a license tax for the operation of railroads.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 267. To amend Section 36-7-20, Code of Alabama 1975, to allow state agencies the option of paying the cost of an employee's travel expenses directly to a contracting facility furnishing room and board, when the employee is assigned to assist in suppressing on-going wildfires, natural disaster situations, or other emergencies.

McDOWELL LEE
Secretary

REPORT OF STANDING COMMITTEE ON RULES RESUMED**MOTION TO SUSPEND RULES AND ADOPT REPORT OF
THE STANDING COMMITTEE ON RULES LOST**

The motion offered by Representative Haynes to suspend the rules in order to dispense with further reading of the Journal of the House of Representatives for the twenty-seventh legislative day and to concur in and adopt the Report of the Standing Committee on Rules was lost, lacking a four-fifths vote.

Yeas 57; Nays 37.

Yea:

Mr. Speaker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Bryant, Burke, Carns, Carothers, Collins, Cosby, Curry, Dolbare, Flowers, Gaines, Gaston, Gullatt, Hamilton, Hammett, Harper, Harvey, Hawkins, Haynes, Hill, Holladay, Hooper, Johnson, Knight (A), Kvalheim, Layson, Lindsey, Mathis, McDaniel, McDowell, McKee, Mikell, Morton, Newton (C), Newton (D), Page,

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Petelos, Rockhold, Rogers (F), Sanderford, Sanderson, Smith (C), Spratt, Starkey, Turnham, Venable, Walker, Warren, Williams, Willis and Zoghby.

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Nay:

Representatives Bowling, Buskey, Butler, Cagle, Carter, Clark (W), Clay, Cullins, Drake, Ford, Freeman, Fuller, Goodwin, Hall (A), Hall (L), Haney, Hilliard, Holley, Holmes, Kennedy, Knight (J), Laird, Letson, McClain, McMillan, Millican, Morrow, Parker (P), Parker (T), Payne, Penry, Perdue, Poole, Powell, Rogers (J), Smith (R) and White.

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MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 675. Relating to the great seal of the state; making it unlawful to use an image or facsimile of the great seal of the state for commercial purposes and to possess and present and to print or distribute, or both, certain identification cards which do not have a certain disclaimer of their authenticity printed on them in a certain place and providing criminal penalties.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Senate has passed the following House Bill and returns same herewith to the House:

H. 93. To amend Sections 11-51-90 and 11-51-93, Code of Alabama 1975, to increase the license issuance fees and the penalty for engaging in a business or vocation in a municipality without a license.

McDOWELL LEE
Secretary

MESSAGE FROM THE SENATE

Mr. Speaker:

The Presiding Officer of the Senate having signed the following Senate Joint Resolutions, your signature thereto is requested:

28th Day

S.J.R. 10. DECLARING AN EMERGENCY IN REGARD TO FUNDING FROM THE ALABAMA SPECIAL EDUCATIONAL TRUST FUND FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1995.

Also:

S.J.R. 145. RECOGNIZING MAC PARSONS OF HUEYTOWN FOR OUTSTANDING SERVICE TO THE STATE OF ALABAMA.

Also:

S.J.R. 146. COMMENDING DR. SARA CREWS FINLEY, RECIPIENT OF THE 1994 DISTINGUISHED ALUMNA AWARD OF THE UNIVERSITY OF ALABAMA.

Also:

S.J.R. 147. RECOGNIZING THE 25TH ANNIVERSARY OF THE TALLADEGA SUPERSPEEDWAY, AND MR. WILLIAM H. G. FRANCE.

McDOWELL LEE
Secretary

SIGNING OF SENATE JOINT RESOLUTIONS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Senate Joint Resolutions, the titles of which are set out in the foregoing Message from the Senate.

**REPORT OF THE STANDING COMMITTEE
ON RULES ON ENROLLED AND ENGROSSED BILLS**

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 718. To exempt public corporations formed under Article 9 of Chapter 50 of Title 11 of the Code of Alabama 1975, for the purpose of operating water, sewer, gas, or electric systems from sales, use, and similar gross receipts taxes; to provide for a retroactive effective date; to repeal all laws and parts of laws in conflict herewith; to provide for the severability of the provisions of this act; and to provide an effective date for this act.

Also:

H. 851. Reopening the Employees' Retirement System to allow certain members of the system employed by employers participating in the system pursuant to Section 36-27-6, Code of Alabama 1975, to purchase credit in the

system for the period of service for which they were once excluded from membership in the system; providing for payment of costs for credit for the service; reopening the Employees' and Teachers' Retirement Systems to allow certain members of the systems an opportunity to purchase credit in the system for certain prior service rendered in a program in the office of a local district attorney which was financed by a federal grant; and providing for a delayed effective date.

Also:

H. 534. To amend Section 40-23-4 of the Code of Alabama 1975, to provide further for certain sales tax exemptions.

Also:

H. 925. Relating to Dallas County; authorizing the county commission to impose an excise tax on persons, corporations, partnerships, companies, agencies, associations, trusts, estates, and other entities engaged in the business of selling, distributing, storing, or withdrawing from storage, gasoline and motor fuel in Dallas County in an amount not to exceed two cents (\$0.02) per gallon; to provide for the collection and payment of the taxes and to provide for the distribution of the funds derived therefrom; to authorize the county commission to make rules and regulations for the collection of the tax; to provide for the enforcement of this act; and to fix the penalty for the violation of this act.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 722. Proposing an amendment to Amendment No. 425 to the Constitution of Alabama of 1901, relating to the mode of adoption of proposed constitutional amendments affecting only one county, to clarify certain provisions of the amendment and to provide further for the mode of adopting amendments affecting only one county and to ratify and confirm constitutional amendments previously approved pursuant to Amendment No. 425.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 100. Proposing an amendment to the Constitution of Alabama of 1901, to provide certain county ad valorem tax officials may participate in the Employees' Retirement System or other county retirement systems in lieu of participating in a supernumerary program or system.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bill, to-wit:

H. 474. Reopening the Employees' Retirement System of Alabama for a certain period of time to allow certain active members of the system to purchase credit under certain guidelines and conditions for prior service with the Alabama

State Council on the Arts, and reopening the Employees' and Teachers' Retirement Systems to allow certain members of the systems an opportunity to purchase credit in the system for certain prior service rendered in a program in the office of a local district attorney which was financed by a federal grant and providing for a termination date.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILL

The Speaker of the House, in the presence of the House, immediately after the title had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bill, the title of which is set out in the foregoing Report of the Standing Committee on Rules.

REPORT OF THE STANDING COMMITTEE ON RULES ON ENROLLED AND ENGROSSED BILLS

Mr. Speaker:

Your Standing Committee on Rules begs leave to report that it has examined the following House Bills, to-wit:

H. 440. To amend Section 36-21-8, Code of Alabama 1975, relating to certain law enforcement officers permitted to retain their badge and pistol as part of retirement benefits, to include certain law enforcement officers who are employees of the Alabama Criminal Justice Information Center.

Also:

H. 486. To create and establish the Alabama High School Legislative Leadership Academy at the University of South Alabama.

Also:

H. 336. To propose a constitutional amendment to amend Sections 6.17 and 6.18 of Amendment 328 of the Constitution of Alabama of 1901, establishing the Judicial Inquiry Commission and the Court of the Judiciary, to provide that the District Judges' Association shall appoint two district judges to serve as members of the Judicial Inquiry Commission and Court of the Judiciary.

Also:

H. 719. To repeal Section 40-21-57, Code of Alabama 1975, relating to a license tax for the operation of railroads.

Also:

H. 319. To grant to all peace officers except constables, whether state, county, municipal, or specially appointed under constitutional or statutory authority whose duties include the enforcement of state criminal laws the same tort liability immunity as given to all or any state officers not constitutional officers; to provide that such immunity shall extend only to such officers and their appointing authorities, and not to private employers of peace officers during their off duty hours; to require employers of off duty peace officers to have at least \$100,000 liability insurance in force to indemnify any acts of such off duty peace officer; and to provide that failure to have such insurance in force shall make individual owners or general partners or corporate officers of the employer liable for all acts taken by such peace officer in the line and scope of such private employment.

Also:

H. 533. To provide members of the council or governing body of any Class 1 municipality with a certain additional expense allowance; to provide that the expense allowance provided under this act and the expense allowances provided under Section 11-43-7.1, Code of Alabama 1975, shall be eligible for certain treatment both as to the determination of retirement benefits and allowances, and to the withholding of required contributions for membership in any pension or retirement system trust fund in which the members may participate.

Also:

H. 423. To amend Section 11-47-190 of the Code of Alabama 1947 respecting tort liability judgments against municipalities.

Also:

H. 16. To amend Sections 11-58-1, 11-58-2, 11-58-3, 11-58-4, 11-58-7, 11-58-12, and 11-58-13 of the Code of Alabama 1975, relating to the incorporation of municipal medical clinic boards to operate municipal medical clinics, so as to authorize counties to incorporate county medical clinic boards to operate county medical clinics.

Also:

H. 490. To amend Section 11-52-3 of the Code of Alabama 1975, relating to planning commission in Class 1 municipalities, to provide further for the compensation for meetings attended by the appointed members of the planning commission of Class 1 municipalities, who are neither elected officials nor employees of the municipality; and to provide an effective date of the act.

Also:

H. 267. To amend Section 36-7-20, Code of Alabama 1975, to allow state agencies the option of paying the cost of an employee's travel expenses directly to a contracting facility furnishing room and board, when the employee is assigned to assist in suppressing on-going wildfires, natural disaster situations, or other emergencies.

Also:

H. 93. To amend Sections 11-51-90 and 11-51-93, Code of Alabama 1975, to increase the license issuance fees and the penalty for engaging in a business or vocation in a municipality without a license.

Also:

H. 675. Relating to the great seal of the state; making it unlawful to use an image or facsimile of the great seal of the state for commercial purposes and to possess and present and to print or distribute, or both, certain identification cards which do not have a certain disclaimer of their authenticity printed on them in a certain place and providing criminal penalties.

And finds same correctly enrolled.

TOMMY CARTER
Chairman

SIGNING OF HOUSE BILLS

The Speaker of the House, in the presence of the House, immediately after the titles had been publicly read by the Clerk, the reading at length having been dispensed with by a two-thirds vote of a quorum present, signed the Bills, the titles of which are set out in the foregoing Report of the Standing Committee on Rules.

CERTIFICATE OF CLERK

To the House of Representatives:

I hereby certify that the House Bills and House Joint Resolutions mentioned were delivered to the Executive Department on the date and hour named and that I hold the receipt of the Executive Department for same.

Delivered to the Secretary of State at 4: 50 P.M. on April 25, 1994.

H. 755 (Constitutional Amendment)

Delivered to the Secretary of State at 4: 51 P.M. on April 25, 1994.

H. 58 (Constitutional Amendment)

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Delivered to the Governor at 4: 57 P.M. on April 25, 1994.

H. 201	H. 910	H.J.R. 432
H. 931	H. 922	H.J.R. 435
H. 924	H. 923	H.J.R. 437
H. 920	H. 430	H.J.R. 438
H. 904	H. 730	H.J.R. 439
H. 759	H. 416	H.J.R. 440
H. 825	H. 502	H.J.R. 446
H. 856	H. 539	H.J.R. 448
H. 882	H. 75	H.J.R. 450
H. 418	H. 654	H. 282
H. 446	H. 123	H. 788
H. 447	H. 930	H. 817
H. 607	H. 929	H. 872
H. 829	H. 325	H. 213
H. 906	H.J.R. 429	H. 244
H. 908		

Delivered to the Governor at 7: 55 P.M. on April 25, 1994.

H. 273	H. 324	H. 491
H. 594	H. 527	H. 544
H. 814	H. 583	H. 648
H. 115	H. 200	H. 748
H. 131	H. 239	H. 810
H. 305	H. 812	H. 555
H. 424	H. 241	H.J.R. 355
H. 679	H. 91	H.J.R. 279
H. 816	H. 487	

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Delivered to the Governor at 9: 55 P.M. on April 25, 1994.

H. 780

H. 540

H. 626

H. 617

Delivered to the Governor at 10: 20 P.M. on April 25, 1994.

H. 299

Delivered to the Governor at 10: 27 P.M. on April 25, 1994.

H. 463

H. 584

H. 613

H. 711

H. 258

H. 2

Delivered to the Governor at 11: 56 P.M. on April 25, 1994.

H. 718

H. 319

H. 851

H. 533

H. 534

H. 423

H. 925

H. 16

H. 474

H. 490

H. 440

H. 267

H. 486

H. 93

H. 719

H. 675

Delivered to the Secretary of State at 11: 55 P.M. on April 25, 1994.

H. 722 (Constitutional Amendment)

H. 100 (Constitutional Amendment)

H. 336 (Constitutional Amendment)

GREG PAPPAS
Clerk

ADJOURNMENT

On motion of Representative Newton (D), the House adjourned sine die at 11:58 o'clock p.m.

Yeas 49; Nays 39.

Yea:

Representatives Biddle, Black (L), Black (M), Bowling, Box, Bryant, Burke, Buskey, Cagle, Campbell, Clark (W), Crow, Cullins, Curry, Drake, Freeman, Goodwin, Hall (A), Hall (L), Hammett, Hawkins, Haynes, Higginbotham, Hilliard, Hogan, Hooper, Kennedy, Laird, Mathis, McClain, Melton, Mikell, Millican, Morrow, Newton (D), Page, Parker (T), Payne, Penry, Perdue, Poole, Powell, Rockhold, Rogers (J), Spratt, Starkey, White, Williams and Willis.

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Nay:

Mr. Speaker, Anderson, Carns, Carothers, Collins, Cosby, Dolbare, Flowers, Fuller, Gaines, Gaston, Gullatt, Haney, Harper, Harvey, Hill, Holladay, Holley, Knight (A), Kvalheim, Layson, Letson, Lindsey, McDaniel, McDowell, McKee, McMillan, Newton (C), Parker (P), Petelos, Rogers (F), Sanderford, Sanderson, Smith (C), Turnham, Venable, Walker, Warren and Zoghby.

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GREG PAPPAS
Clerk of the House of Representatives
of the Legislature of Alabama
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HOUSE OF REPRESENTATIVES
ALPHABETICAL ROSTER AND DISTRICT NUMBERS
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Morris Anderson, 8
David Barnes, 58
John P. Beasley, 85
Jack Biddle, III, 43
Lucius Black, 67
Marcel Black, 2
Harrell Blakeney, 66
W. C. (Bill) Bowling, 12
Michael E. Box, 96
Jenkins Bryant, Jr., 68
Ralph Burke, 24
James E. Buskey, 99
Tom Butler, 6
Johnny T. Cagle, 14
James M. Campbell, 36
Jim Carns, 46
Joe R. Carothers, Jr., 86
Tommy Carter, 5
James S. (Jimmy) Clark, 84
William (Bill) Clark, 98
George H. Clay, 82
Sam Collins, 16
W. F. (Noople) Cosby, Jr., 70
Bobby C. Crow, 35
James T. Cullins, 81
Johnny L. Curry, 50
Jeff Dolbare, 65
Tom Drake, 11
Steve Flowers, 89
Joe M. Ford, 28
Dewayne Freeman, 21
William P. (Bill) Fuller, Jr., 38
Mark L. Gaines, 55
Victor Gaston, 100
J. W. (Joe) Goodwin, 3
Jane Gullatt, 83
Albert Hall, 22
Laura Hall, 19
James H. Hamilton, 4
Seth Hammett, 92
James C. (Jim) Haney, 10
Taylor F. Harper, 105
Bob Harvey, 27
John Hawkins, 48
Clarence Haynes, 32
G. J. (Dutch) Higginbotham, 80
Mike Hill, 41
John R. Hilliard, 60
Thomas E. (Tom) Hogan, 13
Hugh Holladay, 42
Jimmy W. Holley, 91
Alvin Holmes, 78
Perry O. Hooper, Jr., 73

Ronald G. Johnson, 33
Yvonne Kennedy, 103
Al Knight, 40
John F. Knight, Jr., 77
Ken Kvalheim, 101
Richard J. Laird, 37
Allen Layson, 15
Sam Letson, 7
Richard J. Lindsey, 39
Nathan Mathis, 87
Edward B. (E. B.) McClain, 57
W. F. (Frank) McDaniel, 26
Bobbie G. McDowell, 56
Bob McKee, 74
Stephen A. (Steve) McMillan, 95
Bryant Melton, 61
Mike Mikel, 76
Michael J. (Mike) Millican, 17
Johnny Mack Morrow, 18
Albert G. Morton, 45
Charles O. Newton, 90
Demetrius C. Newton, 53
John G. (Jack) Page, 29
Paul Parker, 9
Tim Parker, 63
Arthur Payne, 44
Walter E. Penry, Jr., 94
George Perdue, 54
Tony Petalos, 49
Phil Poole, 62
Horace W. Powell, Sr., 71
Kerry Rich, 25
Ben T. Richardson, 23
Lois M. Rockhold, 104
Frank Rogers, 51
John W. Rogers, Jr., 52
Howard Sanderford, 20
Allen Sanderson, 47
Curtis Smith, 72
Roy E. Smith, 30
Lewis G. Spratt, 59
Nelson R. Starkey, Jr., 1
James L. Thomas, 69
J. E. Turner, 102
Pete Turnham, 79
Jack B. Venable, 31
Claud Walker, 75
James E. (Jimmy) Warren, 64
Frank P. (Skippy) White, 93
Nolan Williams, 88
Gerald Willis, 34
Mary S. Zoghby, 97

**ROSTER OF THE HOUSE OF REPRESENTATIVES
OF ALABAMA
REGULAR SESSION 1994**

OFFICERS

JAMES S. CLARK, *Speaker*, Eufaula
JAMES M. CAMPBELL, *Speaker Pro Tem*, Anniston
WILLIAM G. (GREG) PAPPAS, *Clerk*, Montgomery
DON LADNER, *Administrative Assistant*, Montgomery
VANNAH W. NORRELL, *Chief Clerk*, Montgomery

MEMBERS OF THE HOUSE

Dist. Nos.	Counties & Names	Addresses
1	LAUDERDALE Nelson R. Starkey, Jr.....	301 North Pine Street, Florence 35630
2	COLBERT Marcel Black.....	P.O. Box 491, Tuscumbia 35674
3	COLBERT, LAUDERDALE J. W. (Joe) Goodwin.....	310 Ford Road, Muscle Shoals 35661
4	LAUDERDALE, LIMESTONE James H. Hamilton.....	Route 3, Box 119, Rogersville 35652
5	LIMESTONE Tommy Carter.....	18216 Upper Fort Hampton Road, Elkmont 35620
6	MADISON Tom Butler.....	136 Hartington Drive, Madison 35758
7	LAWRENCE, MORGAN Sam Letson.....	3980 Highway 36, Moulton 35650
8	MORGAN Morris Anderson.....	3219 Vicksburg Drive, S.W., Decatur 35603-3109
9	MORGAN Paul Parker.....	606 Douglas Drive, N.W., Hartselle 35640
10	MADISON James C. (Jim) Haney.....	809 Tannahill Drive, Huntsville 35802

**ROSTER OF THE HOUSE OF REPRESENTATIVES
OF ALABAMA-Continued**

- 11 CULLMAN, MORGAN
Tom Drake.....P.O. Box 1165, Cullman 35055
- 12 CULLMAN
W. C. (Bill) Bowling.....804 County Road 483, Hanceville 35077
- 13 WALKER
Thomas E. (Tom) Hogan.....300 12th Avenue, N.E., Jasper 35501
- 14 TUSCALOOSA, WALKER
Johnny T. Cagle.....Route 2, Box 105, Nauvoo 35578
- 15 PICKENS, TUSCALOOSA
Allen Layson.....P.O. Box 910, Reform 35481
- 16 FAYETTE, LAMAR, MARION
Sam Collins.....1019 13th Street, N.W., Fayette 35555
- 17 MARION, WINSTON
Michael J. (Mike) Millican.....Route 1, Box 71, Hamilton 35570
- 18 FRANKLIN, MARION
Johnny Mack Morrow.....709 Carter Street, N.E., Red Bay 35582
- 19 MADISON
Laura Hall.....P.O. Box 3274, Huntsville 35810
- 20 MADISON
Howard Sanderford.....908 Tannahill Drive, S.E., Huntsville 35802-1971
- 21 MADISON
Dewayne Freeman.....P.O. Box 3069, Huntsville 35810
- 22 JACKSON, MADISON
Albert Hall.....Route 1, P.O. Box 275, Gurley 35748
- 23 JACKSON
Ben T. Richardson.....P.O. Box 1017, Scottsboro 35768

**ROSTER OF THE HOUSE OF REPRESENTATIVES
OF ALABAMA-Continued**

- 24 DEKALB
Ralph Burke.....P.O. Box 1564, Rainsville 35986
- 25 MARSHALL
Kerry Rich.....1613 Stoddard Drive, S.W., Arab 35016
- 26 DEKALB, MARSHALL
W. F. (Frank) McDaniel.....P.O. Box 577, Albertville 35950
- 27 BLOUNT
Bob Harvey.....Route 5, Box 4998, Oneonta 35121
- 28 ETOWAH
Joe M. Ford.....Gadsden State Community College
P.O. Box 227, Gadsden 35902-0227
- 29 ETOWAH
John G. (Jack) Page.....314 Haralson Avenue, Gadsden 35901
- 30 ETOWAH, ST. CLAIR
Roy E. Smith.....753 Forrest Avenue, Gadsden 35901
- 31 COOSA, ELMORE
Jack B. Venable.....P.O. Box 736, Tallassee 36078
- 32 TALLADEGA
Clarence Haynes.....P.O. Box 1041, Talladega 35160
- 33 TALLADEGA
Ronald G. Johnson.....3770 Sylacauga-Fayette Highway, Sylacauga 35150
- 34 CALHOUN
Gerald Wills.....15695 Alabama Highway 9, S., Piedmont 36272
- 35 CALHOUN
Bobby C. Crow.....150 Huckleberry Ridge, Anniston 36201
- 36 CALHOUN
James M. Campbell.....P.O. Box 2003, Anniston 36202
- 37 CHAMBERS, RANDOLPH, CLAY
Richard J. Laird.....1507 Bonner Drive, Roanoke 36274

**ROSTER OF THE HOUSE OF REPRESENTATIVES
OF ALABAMA-Continued**

- 38 CHAMBERS
William P. (Bill) Fuller, Jr.....P.O. Box 317, LaFayette 36862
- 39 CHEROKEE, CLEBURNE, DEKALB
Richard J. Lindsey.....Route 2, Box 394, Centre 35960
- 40 BIBB, SHELBY
Al Knight.....2969-M Montgomery Highway, Pelham 35124
- 41 SHELBY
Mike Hill.....114 Arlington Street, Columbiana 35051
- 42 ST. CLAIR
Hugh Holladay.....1711 Cogswell Avenue, Pell City 35125
- 43 JEFFERSON
Jack Biddle, III.....2256 Pinehurst Drive, Gardendale 35071
- 44 JEFFERSON
Arthur Payne.....2825 Second Street, N.W., Birmingham 35215
- 45 JEFFERSON
Albert G. Morton.....833 Zellmark Drive, Birmingham 35235
- 46 JEFFERSON
Jim Carns.....3 Office Park Circle, Suite 120, Birmingham 35223
- 47 JEFFERSON
Allen Sanderson.....126 Greenbriar Lane, Birmingham 35213
- 48 JEFFERSON
John Hawkins.....1841 Montclair Drive, Birmingham 35216
- 49 JEFFERSON
Tony Petelos.....P.O. Box 40, Pleasant Grove 35127
- 50 JEFFERSON
Johnny L. Curry.....3264 Fieldale Drive, Hueytown 35023

**ROSTER OF THE HOUSE OF REPRESENTATIVES
OF ALABAMA-Continued**

- 51 JEFFERSON
Frank Rogers.....803 North Main Street, Graysville 35073
- 52 JEFFERSON
John W. Rogers, Jr.....1424 18th Street, S.W., Birmingham 35211
- 53 JEFFERSON
Demetrius C. Newton.....P.O. Box 2525, Birmingham 35202
- 54 JEFFERSON
George Perdue.....P.O. Box 2473, Birmingham 35201
- 55 JEFFERSON
Mark L. Gaines.....201 Morris Boulevard, Homewood 35209
- 56 JEFFERSON
Bobbie G. McDowell.....2322 Dartmouth Avenue, Bessemer 35020
- 57 JEFFERSON
Edward B. (E. B.) McClain.....3826 Troy Terrace, Brighton 35020
- 58 JEFFERSON
David Barnes.....4245 D 1st Avenue, N., Birmingham 35222
- 59 JEFFERSON
Lewis G. Spratt.....3809 Fourth Street, W., Birmingham 35207
- 60 JEFFERSON
John R. Hilliard.....P.O. Box 11385, Birmingham 35202
- 61 TUSCALOOSA
Bryant Melton.....5003 4th Avenue, Tuscaloosa 35405
- 62 HALE, TUSCALOOSA
Phil Poole.....P.O. Box 609, Moundville 35474-0609
- 63 TUSCALOOSA
Tim Parker.....P.O. Box 020908, Tuscaloosa 35402-0908

**ROSTER OF THE HOUSE OF REPRESENTATIVES
OF ALABAMA-Continued**

- 64 CONECUH, MONROE
James E. (Jimmy) Warren.....P.O. Box 207, Castleberry 36432
- 65 CLARKE, WASHINGTON
Jeff Dolbare.....Star Route, Box 17, Bigbee 36510
- 66 CHOCTAW, CLARKE, MARENGO
Harrell Blakeney.....1101 Old Highway 5, S., Thomasville 36784
- 67 CHOCTAW, GREENE, SUMTER
Lucius Black.....P.O. Box 284, York 36925
- 68 DALLAS, HALE, PERRY
Jenkins Bryant, Jr.....Route 1, Box 482, Newbern 36765
- 69 DALLAS, LOWNDES, WILCOX
James L. Thomas.....2713 Highway 14, E., Selma 36701
- 70 DALLAS
W. F. (Noopie) Cosby, Jr.....P.O. Box 683, Selma 36702
- 71 AUTAUGA, CHILTON
Horace W. Powell, Sr.....943 East Main Street, Prattville 36066
- 72 BIBB, CHILTON
Curtis Smith.....16131 Highway 22, Clanton 35045
- 73 MONTGOMERY
Perry O. Hooper, Jr.....3472 Bankhead Avenue, Montgomery 36111
- 74 MONTGOMERY
Bob McKee.....P.O. Box 424, Montgomery 36101
- 75 MONTGOMERY
Claud Walker.....8080 Butler Mill Road, Montgomery 36105
- 76 ELMORE, MONTGOMERY
Mike Mikel.....P.O. Box 993, Millbrook 36054
- 77 MONTGOMERY
John F. Knight, Jr.....P.O. Box 6148, Montgomery 36106

**ROSTER OF THE HOUSE OF REPRESENTATIVES
OF ALABAMA-Continued****78 MONTGOMERY**

Alvin Holmes.....P.O. Box 6064, Montgomery 36106

79 LEE

Pete Turnham.....P.O. Box 3490, Auburn 36831-3490

80 LEE

G. J. (Dutch) Higginbotham.....709 Laurel Street, Opelika 36801

81 TALLAPOOSA

James T. Cullins.....P.O. Box 5, Alexander City 35010

82 BULLOCK, MACON

George H. Clay.....P.O. Box 299, Tuskegee 36083

83 RUSSELL

Jane Gullatt.....P.O. Box 626, Phenix City 36867

84 BARBOUR, RUSSELL

James S. (Jimmy) Clark.....P.O. Box 71, Eufaula 36072

85 HENRY, HOUSTON

John P. Beasley.....P.O. Drawer M, Columbia 36319

86 HOUSTON

Joe R. Carothers, Jr.....2916 Taylor Road, Dothan 36301

87 GENEVA, HOUSTON

Nathan Mathis.....Route 2, Box 317, Wicksburg (Newton) 36352

88 DALE

Nolan Williams.....Route 2, Box 44, Newton 36352

89 DALE, PIKE

Steve Flowers.....P.O. Box 973, Troy 36081

90 BUTLER, CRENSHAW

Charles O. Newton.....760 South Conecuh Street, Greenville 36037

91 COFFEE

Jimmy W. Holley.....Route 2, Box 254-E, Elba 36323

**ROSTER OF THE HOUSE OF REPRESENTATIVES
OF ALABAMA-Continued**

- 92 COVINGTON
Seth Hammett.....P.O. Box 1836, Andalusia 36420
- 93 ESCAMBIA
Frank P. (Skippy) White.....Route 1, Box 427-Pollard, Flomaton 36441
- 94 BALDWIN
Walter E. Penry, Jr.....12040 County Road 54, Daphne 36526
- 95 BALDWIN
Stephen A. (Steve) McMillan.....P.O. Box 337, Bay Minette 36507
- 96 MOBILE
Michael E. Box.....One St. Louis Centre, Suite 4002, Mobile 36602
- 97 MOBILE
Mary S. Zoghby.....2862 Hilburn Drive, Mobile 36606
- 98 MOBILE
William (Bill) Clark.....711 South Atmore Avenue, Prichard 36612
- 99 MOBILE
James E. Buskey.....2207 Barretts Lane, Mobile 36617
- 100 MOBILE
Victor Gaston.....864 Parkwood Drive, W., Mobile 36608
- 101 MOBILE
Ken Kvalheim.....421 Dogwood Drive, Mobile 36609
- 102 MOBILE
J. E. Turner.....P.O. Box 787, Citronelle 36522
- 103 MOBILE
Yvonne Kennedy.....1205 Glennon Avenue, Mobile 36603
- 104 MOBILE
Lois M. Rockhold.....5163 Santos Drive, E., Mobile 36619
- 105 MOBILE
Taylor F. Harper.....P.O. Box 229, Grand Bay 36541

ALABAMA STATE SENATE
ALPHABETICAL ROSTER AND DISTRICT NUMBER
REGULAR SESSION 1994

John E. Amari, 15
Chip Bailey, 29
Lowell Ray Barron, 8
Ann Bedsole, 34
George R. Bolling, 6
Ray Campbell, 3
J. Danny Corbett, 28
Ryan deGraffenried, Jr. 21
Bobby E. Denton, 1
Gerald Dial, 13
Larry Dixon, 25
Frank (Butch) Ellis, Jr., 14
Sundra Escott-Russell, 20
Michael A. Figures, 33
Jack Floyd, 10
E. Crum Foshee, 31
Doug Ghee, 12

Don Hale, 4
Odell V. (Dell) Hill, Jr., 11
W. Fred Horn, 18
Charles D. Langford, 26
W. H. (Pat) Lindsey, 22
Albert Lipscomb, 32
T. D. (Ted) Little, 27
Wendell Mitchell, 30
Hinton Mitchem, 9
Walter Owens, 24
Mac Parsons, 17
Henry (Hank) Sanders, 23
Bill G. Smith, 7
Jim Smith, 2
Jeffrey T. (Jeff) Underwood, 19
J. T. (Jabo) Waggoner, 16
Robert T. (Bob) Wilson, Jr., 5
Steve Windom, 35

ROSTER OF THE SENATE OF ALABAMA
REGULAR SESSION 1994

OFFICERS

RYAN deGRAFFENRIED, JR., *President Pro-Tempore and*
Presiding Officer, Tuscaloosa

McDOWELL LEE, *Secretary*, Montgomery

D. PATRICK HARRIS, *Assistant Secretary*, Montgomery

DAVE AVANT, *Administrative Assistant*, Prattville

SUZAN McCLELLAND, *Chief Clerk*, Prattville

MEMBERS OF THE SENATE

Dist. Nos.	Counties & Names	Addresses
1	COLBERT, LAUDERDALE	
	Bobby E. Denton.....	P.O. Box 987, Tuscumbia 35674
2	LAUDERDALE, LIMESTONE, MADISON	
	Jim Smith.....	108-A South Side Square, Huntsville 35801
3	LAWRENCE, MORGAN	
	Ray Campbell.....	P.O. Box 1988, Decatur 35602-1988
4	CULLMAN, MADISON, MORGAN	
	Don Hale.....	1725 Woodland Street, N.W., Cullman 35055
5	PICKENS, TUSCALOOSA, WALKER	
	Robert T. (Bob) Wilson, Jr.....	P.O. Box 2088, Jasper 35502
6	FAYETTE, FRANKLIN, LAMAR, MARION, WINSTON	
	George R. Bolling.....	P.O. Box 350, Fayette 35555
7	MADISON	
	Bill G. Smith.....	2009 Gallatin Street, S.W., Huntsville 35801
8	DEKALB, JACKSON, MADISON	
	Lowell Ray Barron.....	P.O. Box 65, Fyffe 35971
9	BLOUNT, DEKALB, MARSHALL	
	Hinton Mitchem.....	P.O. Box 297, Albertville 35950

**ROSTER OF THE SENATE
OF ALABAMA-Continued**

- 10 ETOWAH, ST. CLAIR
Jack Floyd.....816 Chestnut Street, Gadsden 35999
- 11 COOSA, ELMORE, TALLADEGA
Odell V. (Dell) Hill, Jr.....706 Selwood Road, Alpine 35014
- 12 CALHOUN
Doug Ghee.....P.O. Box 848, Anniston 36202
- 13 CHAMBERS, CHEROKEE, CLAY, CLEBURNE, DEKALB, RANDOLPH
Gerald Dial.....P.O. Box 248, Lineville 36266
- 14 BIBB, SHELBY, ST. CLAIR
Frank (Butch) Ellis, Jr.....P.O. Box 587, Columbiana 35051
- 15 JEFFERSON
John E. Amari.....1337 Stonecrest Drive, Birmingham 35235
- 16 JEFFERSON
J. T. (Jabo) Waggoner.....Two Perimeter Park South
Suite 224 W., Birmingham 35243
- 17 JEFFERSON
Mac Parsons.....P.O. Box 3336, Hueytown 35023
- 18 JEFFERSON
W. Fred Horn.....333 16th Avenue, S.W., Birmingham 35211
- 19 JEFFERSON
Jeffrey T. (Jeff) Underwood.....3800 Ridgeway Drive, Birmingham 35209
- 20 JEFFERSON
Sundra Escott-Russell.....P.O. Box 8343, Birmingham 35218
- 21 HALE, TUSCALOOSA
Ryan deGraffenried, Jr.....2600 6th Street, P.O. Box 2263
Tuscaloosa 35403
- 22 CHOCTAW, CLARKE, CONECUH, MARENGO, MONROE, WASHINGTON
W. H. (Pat) Lindsey.....126 South Mulberry Avenue, Butler 36904

**ROSTER OF THE SENATE
OF ALABAMA-Continued**

- 23 CHOCTAW, DALLAS, GREENE, HALE, LOWNDES, PERRY, SUMTER, WILCOX
Henry (Hank) Sanders.....P.O. Box 1305, Selma 36702-1305
- 24 AUTAUGA, BIBB, CHILTON, DALLAS
Walter Owens.....111 Pine Avenue, Centreville 35042
- 25 MONTGOMERY
Larry Dixon.....P.O. Box 946, Montgomery 36101
- 26 ELMORE, MONTGOMERY
Charles D. Langford.....918 E. Grove Street, Montgomery 36104
- 27 LEE, TALLAPOOSA
T. D. (Ted) Little.....P.O. Box 2366, Auburn 36831-2366
- 28 BARBOUR, BULLOCK, MACON, RUSSELL
J. Danny Corbett.....P.O. Box 789, Phenix City 36868-0789
- 29 GENEVA, HENRY, HOUSTON
Chip Bailey.....P.O. Box 6791, Dothan 36302
- 30 BUTLER, CRENSHAW, DALE, PIKE
Wendell Mitchell.....P.O. Box 225, Luverne 36049
- 31 COFFEE, COVINGTON, ESCAMBIA
E. Crum Foshee.....Alabama State House, Montgomery 36130-4600
- 32 BALDWIN, MOBILE
Albert Lipscomb.....P.O. Box 209, Magnolia Springs 36555
- 33 MOBILE
Michael A. Figures.....2317 St. Stephens Road, Prichard 36617
- 34 MOBILE
Ann Bedsole.....P.O. Box 16642, Mobile 36616
- 35 MOBILE
Steve Windom.....P.O. Drawer 2025, Mobile 36652

**HOUSE OF REPRESENTATIVES
LEGISLATIVE DAYS
REGULAR SESSION 1994**

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SEVENTEENTH DAY - Thursday, March 3	1319
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TWENTY-SECOND DAY - Tuesday, March 22	2055
TWENTY-THIRD DAY - Thursday, March 24	2159
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Minimum 20 mills levied in each county, distribution, utilities property and residential rental property, rates lowered, ca-
H. 375, pages 160, 1729

Minimum levied in all state school districts, procedure to further increase, provided, ca-
H. 119, pages 49, 1295

Property, valuation of, objection to, deadline for filing, altered-
H. 292, page 116

Public library services, exemption, provided-
H. 492, page 429

Rainbow omega, Inc., exemption, provided-
H. 366, page 158

ADAIR, LILLIAN ADELA DUFFEE

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H.J.R. 210, pages 1315, 1685, 2101, 2113, 2158, Act No. 94-300

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H.J.R. 237, pages 1670, 1671, 1694, 2091, 2112, 2157, Act No. 94-293
S.J.R. 81, pages 1794, 1795, 1895, 2020, Act No. 94-237

ADAMS MIDDLE SCHOOL BAND

Commended-

H.J.R. 446, pages 3108, 3109, 3617, 3634, 3708, Act No. 94-630

ADAMS, Q. D.

Commended-

H.J.R. 406, pages 2764, 2765, 3088, 3100, 3610, Act No. 94-498

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ADULT PROTECTIVE SERVICES

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H. 303, pages 119, 2169

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ADULTS

Open house parties conducted by minors where drugs or alcoholic beverages are consumed, criminally liable in certain instances, provided-

H. 105, pages 46, 104, 469, 470, 515, 516, 517, 2768, 2946, 3055, Act No. 94-580

Protective services, established-

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S. 414, pages 2388, 2389, 2552, 3081, 3586, 3613, Act No. 94-615

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H.R. 172, pages 843, 844

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H.R. 73, pages 433, 434, 435

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H.R. 49, pages 183, 184, 360

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H. 303, pages 119, 2169

S. 414, pages 2388, 2389, 2552, 3081, 3586, 3613, Act No. 94-615

Commission on aging, lead agency for examination and revision of state's long-term care system, designated-

H.J.R. 355, pages 2531, 2532, 2545, 3641, 3649, 3708, Act No. 94-636

Crime victims over age 70, deposition in lieu of live testimony, notice, costs-

H. 407, pages 167, 707, 899, 902, 922

Discrimination in employment, prohibited-

H. 564, pages 537, 1418, 1723, 1739

Jurors, aged 70 and older, may elect not to serve, provided-

H. 600, pages 628, 1089

Law enforcement agencies, assist in locating missing alzheimer's victims, urged to-

H.J.R. 124, pages 635, 704, 1121, 1140, 1182, Act No. 94-155

Senior citizens hall of fame, membership and quorum, further provided-

H. 496, pages 430, 1090, 1728, 1998, 2529, 2530

Tax notices, availability of homestead exemptions for, required to include-

H. 364, pages 158, 2172

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Building authority, may issue bonds for construction and renovation of buildings-

H. 771, pages 1428, 1664

Commodities, unfair trade practices between producers and integrators, prohibited-

H. 412, pages 168, 368, 1993, 2718, 2754

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H. 268, pages 111, 368, 650, 732, 745, 876, 883

S. 282, pages 578, 710, 876, 877, 883, 1799, 1800, 2268, 2274, 2324, Act No. 94-322

Motor vehicles, farm trucks, weight up to 80,000 pounds, special license tax and registration fee-

H. 69, pages 37, 483, 648, 683

AGRICULTURAL AFFAIRS (Continued)

Natural gas used by persons, certain, for agricultural purposes, tax exemption, provided-
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Petroleum products, certain, inspection fees, individuals subject to, books, accounts and records of, revenue department, authorized to examine-
H. 686, pages 918, 1416

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H. 444, pages 384, 562, 1728, 1998

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Commission, designees and replacement of designees, appointment of, further provided-
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AGRICULTURAL MUSEUM AND HALL OF FAME BOARD

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H. 571, pages 569, 708

AGRICULTURE AND INDUSTRIES DEPARTMENT

Board, fees for dealers and amount of bond which is to be based on amount of gross sales, authorized to set-
H. 571, pages 569, 708

Building authority, may issue bonds for construction and renovation of buildings-
H. 771, pages 1428, 1664

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H. 770, pages 1427, 1664

AGRICULTURE AND INDUSTRIES DEPARTMENT (Continued)

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H. 268, pages 111, 368, 650, 732, 745, 876, 883

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Public livestock marketing act, charters, meeting place of board, revolving
funds, appropriated, revoked charter, appeals procedure for-

H. 444, pages 384, 562, 1728, 1998

AID TO DEPENDENT CHILDREN

Applicants for, job applicant program, provided-

H. 891, page 2069

Families with dependent children eligibility of benefits act, established-

H. 803, page 1465

Recipients, dependent child's school attendance, required to monitor,
teenage single parents, required to remain in school until graduation,
penalized by reduction or loss of benefits, provided-

H. 839, page 1705

Recipients, provide for support of children living with them-

H. 801, page 1465

Recipients of, benefits may be limited if recipients have additional children-

H. 893, page 2070

Residency requirements for, established-

H. 802, page 1465

Single teenage parents under age 18, receiving aid to dependent children,
required to reside with parents-

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Utility services recipients receiving, customer charge levy waived-

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Welfare benefits received by families receiving, human resources depart-
ment to do comprehensive study on-

H. 799, page 1465

AIDS TASK FORCE OF ALABAMA, INC.

Appropriation, provided-

H. 252, pages 77, 1085, 1202, 1602, 1603, 1606, 1614, 2336, 2354,
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H. 253, pages 77, 103, 345, 903, 923, 1074, Act No. 94-178

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Control act, violations, fines prescribed-
H. 481, pages 427, 1092, 2517, 2518

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U.S. congress and federal government oppose legislation and court case regarding local revenues, urged to-
H.J.R. 279, pages 1928, 1929, 2057, 3641, 3650, 3708, Act No. 94-637

International authority, board of directors, increased-
H. 834, page 1630

ALABAMA A & M UNIVERSITY

Appropriation, supplemental, provided-
H. 933, pages 2570, 2761

Board of trustees, members, decreased, meetings, further provided-
H. 694, pages 920, 1420

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H.J.R. 214, pages 1446, 1447, 1686, 2101, 2113, 2158, Act No. 94-302

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H. 411, pages 168, 485

ALABAMA CHILD NUTRITION LAW

Boards of education, local, breakfast and lunch programs, required to establish-
H. 821, pages 1626, 1902

ALABAMA COMMISSION ON HIGHER EDUCATION

Appropriation, provided-
H. 667, page 864

ALABAMA CONGRESSIONAL DELEGATION

"Tax fairness for main street business act of 1994", s. 1825, memorialized to support-
H.J.R. 246, pages 1714, 2296, 2298, 2355, Act No. 94-315
S.J.R. 87, pages 1797, 1798, 2056, 2140, Act No. 94-264

ALABAMA DIABETES ASSOCIATION

Taxation, sales and use, county and municipal, exemption, provided-
H. 568, page 569

ALABAMA FAMILY TRUST

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H. 618, pages 720, 785, 1444, 2768, 2946, 3055, Act No. 94-579

ALABAMA FIRST ACT

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S. 75, pages 527, 528, 705

ALABAMA INDEPENDENT SCHOOL ASSOCIATION

Official in-state accreditation agency for non-public school, designated-
H. 570, pages 569, 658, 708
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ALABAMA KIDNEY FOUNDATION, INC.

Appropriation, provided-
H. 219, pages 70, 102, 336, 337, 2672, 2673, 2773, 3055, Act No.
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ALABAMA LAW INSTITUTE

Constitution of Alabama, dealing with, directed to develop tests for-
H.J.R. 36, pages 133, 134

ALABAMA POWER COMPANY

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H.J.R. 234, pages 1668, 1669, 1693, 2090, 2112, 2157, Act No. 94-291

ALABAMA SCHOOL FOR THE BLIND

Wrestling team, commended-
H.R. 418, page 3050

ALABAMA SCHOOL FOR THE DEAF

Boys basketball team, commended-
H.R. 417, page 3049

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ALABAMA STATE UNIVERSITY**Appropriation, provided-**

H. 44, pages 31, 838, 948, 949, 950, 951, 2662, 2752, Act No. 94-479

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H. 933, pages 2570, 2761

ALABAMA'S SMOKE-FREE CLASS OF 2000**Recognized-**

H.J.R. 86, pages 475, 476, 482, 555, 567, 618, Act No. 94-70

ALABAMA'S YOUNG WOMAN OF THE YEAR PROGRAM**Appropriation, provided-**

H. 174, pages 62, 103, 412, 413, 414, 423, 923, 943, 1074, Act No. 94-171

ALABAMA**175th birthday, commended-**

H.J.R. 34, pages 131, 132, 144, 347, 373, 417, Act No. 94-28

ALCOHOLIC BEVERAGE CONTROL BOARD**Appropriation, supplemental, provided-**

H. 92, pages 43, 362, 592, 593, 2767, 2947, 3056, Act No. 94-545

Importer licenses issued by, residence and citizenship requirements, certain, removed-

H. 871, pages 1924, 2061

Mark-up, will of legislature, expressed-

S.J.R. 35, pages 724, 725, 1674, 1680, 1681, 1682, 1683, 1684, 1914, Act No. 94-220

Municipalities, class 1 and 2, alcoholic beverage retail license, must approve prior to issuance by, judicial review of disapproval-

H. 390, page 163

Retail license in unincorporated area of county, issuing without county commission or circuit court approval, prohibited from-

H. 684, page 918

ALCOHOLIC BEVERAGES**Beer, definition of for regulation and control of, altered-**

H. 833, page 1629

ALCOHOLIC BEVERAGES (Continued)

Beer, exclusive wholesaler's sales territory to conform to county lines, if more than one wholesaler in a county, the wholesaler with most sales receives exclusive territory, buy out procedure, provided-
H. 742, pages 1194, 1421, 1729

Boats and motor vehicles, driving or operating under the influence, of, causing death of another, commits crime of murder-
H. 20, pages 26, 105, 546, 547, 549, 815, 816, 817, 819

Driving under influence, a fourth or subsequent conviction, penalties, increased-
H. 348, page 130
S. 85, pages 1782, 2170, 2730, 2731, 2732, 2754, Act No. 94-590

Driving under influence, blood alcohol level reduced, driver's license suspended-
H. 346, page 130

Driving under the influence, penalty for fourth conviction in five years, class C felony, conditions of sentence, revocation of license, driving privilege after first conviction-
H. 558, pages 536, 1089

Hunting under the influence of, prohibited, when injury or death occurs, penalties, enhanced-
H. 530, pages 501, 1696

Marine police, arrest powers in dui cases, further provided-
H. 457, pages 387, 490

Mark-up, will of legislature, expressed-
S.J.R. 35, pages 724, 725, 1674, 1680, 1681, 1682, 1683, 1684, 1914,
Act No. 94-220

Municipalities, class 1 and 2, alcoholic beverage retail license, must approve prior to issuance by abc board, judicial review of disapproval-
H. 390, page 163

Open house parties conducted by minors where consumed, adults criminally liable in certain instances-
H. 105, pages 46, 104, 469, 470, 515, 516, 517, 2768, 2946, 3055, Act No. 94-580

State committee on drug abuse and alcoholism, and division of mental health for drug abuse and alcoholism, created-
H. 519, page 499

ALEXANDER, AL

Building, named-

S.J.R. 84, pages 1795, 1896, 2020, Act No. 94-240

ALIMONY

Divorce settlement awards, allowance for retirement pension benefits,
further provided-

H. 569, pages 569, 2168

ALLEN, WILLIE

Commended-

H.J.R. 170, pages 842, 911, 912, 1130, 1139, 1183, Act No. 94-145

ALLISON, DAVID CARL "DAVEY"

Honored posthumously-

H.J.R. 62, pages 354, 355, 359, 390, 405, 417, Act No. 94-1

Joint session, convened to honor-

H.J.R. 15, pages 15, 98, 152, 307, 356, 457, Act No. 94-14

**ALZHEIMER'S ASSOCIATION AND RELATED DISORDERS ASSOCIATION,
INC.**

Taxes, sales and use, county and municipal, exemption, provided-

H. 304, page 119

ALZHEIMER'S DISEASE

Victims and caregivers, needs of, interim committee established to study-

H.J.R. 203, pages 1197, 1199, 1689, 2296, 2298, 2355, Act No. 94-314

Victims, missing, law enforcement agencies, assist in locating-

H.J.R. 124, pages 635, 704, 1121, 1140, 1182, Act No. 94-155

AMERICA'S YOUNG WOMAN OF THE YEAR PROGRAM

Appropriation, provided-

H. 175, pages 62, 103, 414, 415, 416, 423, 923, 943, 1074, Act No.
94-170

AMERICAN-HELLENIC WEEKEND

Designated-

H.R. 72, page 416

AMERSON, LUCIUS D.

Death mourned-
H.R. 302, page 2072

AMMUNITION

Primitive hunting season, established antique firearms, "black powder", use of, authorized, license, required, penalties, provided-
H. 842, page 1706

AMUNDSON, WILLIAM J.

Death mourned-
S.J.R. 54, pages 1455, 1456, 1686, 1914, Act No. 94-221

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Intent on driver's license and non-driver i.d. cards, availability of organs without regard to age, university of Alabama-Birmingham and university of south Alabama to act as clearinghouse-
H. 811, pages 1469, 1697

ANDALUSIA

Nuisances, weeds and unsafe structures, abatement of, hearing, liens, provided-
S. 659, pages 2386, 2387, 2553, 2776, 2777, 2839, Act No. 94-540

ANDERSON, GRACE M. NABORS

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H.R. 82, page 473
H.R. 83, page 473

ANGLIN, LUM

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H.J.R. 254, pages 1883, 1897, 2087, 2110, 2157, Act No. 94-276

ANIMALS

Police, assault on, penalty to be felony and misdemeanor-
H. 689, pages 919, 2168
S. 7, pages 689, 1088

Rabbits and rabbit food, sales and use tax exemption, provided-
H. 868, pages 1924, 2549

ANNEXATION PROCEDURE

Class 4 municipalities, certain, alternative procedure, established-
H. 916, pages 2177, 2178

ANNISTON

Police and firefighters' retirement fund, investments, additional, authorized,
one time increase in benefits to survivors, provided-
H. 798, pages 1464, 1703, 1975, 2803, 2949, 3055, Act No. 94-549

ANTI-OBSCENITY ENFORCEMENT ACT

Dancing, topless, bottomless or nude, deemed violation of-
H. 25, pages 27, 104, 519, 520, 521, 522, 523, 524, 526

ANTI-VIOLENCE YEAR

1994, designated-
S.J.R. 39, pages 725, 726, 783, 828, Act No. 94-108

Senate district 23, 1994, designated-
S.J.R. 19, pages 395, 422, 462, Act No. 94-52

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Aids task force of Alabama, inc., provided-
H. 252, pages 77, 1085, 1202, 1602, 1603, 1606, 1614, 2336, 2354,
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H. 253, pages 77, 103, 345, 903, 923, 1074, Act No. 94-178

Alabama a & m university and Alabama state university, supplemental,
provided-
H. 933, pages 2570, 2761

Alabama aviation technical college, supplemental, provided-
H. 441, page 383

Alabama kidney foundation, inc., provided-
H. 219, pages 70, 102, 336, 337, 2672, 2673, 2773, 3055, Act No.
94-527

Alabama's young woman of the year program, provided-
H. 174, pages 62, 103, 412, 413, 414, 423, 923, 943, 1074, Act No.
94-171

Alcoholic beverage control board, supplemental, provided-
H. 92, pages 43, 362, 592, 593, 2767, 2947, 3056, Act No. 94-545

APPROPRIATIONS (Continued)

America's young woman of the year program, provided-

H. 175, pages 62, 103, 414, 415, 416, 423, 923, 943, 1074, Act No. 94-170

Attorney general's office, supplemental, provided-

H. 673, pages 865, 1087, 1204, 1651, 2663, 2771, 3055, Act No. 94-484

Beacon house-Jasper, provided-

H. 176, pages 63, 100, 318, 903, 923, 1074, Act No. 94-169

Birmingham board of education, athletic department, provided-

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Birmingham children's theatre, provided-

H. 546, pages 505, 1086, 1203, 1622, 1630, 2336, 2354, 2540, Act No. 94-362

Birmingham football foundation, provided-

S. 424, page 903

Black belt human resource development center, provided-

H. 207, pages 68, 1081, 1200, 1552, 2325, 2333, 2356, Act No. 94-331

Board of licensure for geologists, established, fines and penalties established, provided-

H. 638, pages 791, 1091, 1726, 1995, 2018, 2019

S. 322, pages 3033, 3065

Camp ascca, provided-

H. 199, pages 67, 1080, 1200, 1535, 1536, 2300, 2304, 2356, Act No. 94-318

Cash management improvement act of 1990, provided-

S. 209, pages 3021, 3062

Central Alabama opportunities industrialization center, provided-

H. 183, pages 64, 1079, 1203, 1634, 1635, 2330, 2353, 2540, Act No. 94-357

Cherokee county dixie youth program, provided-

H. 168, pages 61, 148

APPROPRIATIONS (Continued)

Children's advocacy centers, inc., provided-

H. 177, pages 63, 101, 319, 320, 2679, 2773, 3055

Children's and women's hospital, Mobile, provided-

H. 211, pages 69, 1082, 1201, 1558, 2671, 2672, 2772, 3055, Act No. 94-523

Children's hospital, Birmingham, provided-

H. 209, pages 68, 1081, 1200, 1553, 2670, 2772, 3055, Act No. 94-524

Children's museum, provided-

H. 239, pages 74, 1084, 1202, 1601, 1606, 1607, 1620, 1621, 1622, 2675, 2676, 2770, 3570, 3571, 3637, 3646, 3708, Act No. 94-683

Circuit clerks, collection of court-ordered money from criminal defendants, provided, to unified judicial system-

H. 502, pages 431, 1665, 2100, 2102, 2104, 2108, 3618, 3631, 3708, Act No. 94-698

Cleveland avenue ymca, provided-

H. 224, pages 71, 1084, 1202, 1581, 1652, 1653, 1654, 1675, 2330, 2353, 2540, Act No. 94-358

Coalition against domestic violence, provided-

H. 178, pages 63, 101, 320, 321, 322, 2665, 2666, 2771, 3055, Act No. 94-518

H. 261, pages 79, 489

Colleges, universities and junior colleges, tuition assistance to needy students, criteria, provided-

H. 520, page 499

Commission on aging, care assurance system, provided-

H. 173, pages 62, 100, 317, 895, 922, 1074, Act No. 94-168

Commission on higher education, provided-

H. 667, page 864

Community theatre education program, repealed and reappropriated-

H. 158, pages 59, 147

Compact for leadership and citizenship education, established, provided-

H. 650, page 795

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APPROPRIATIONS (Continued)

Constitution hall village, provided-

H. 223, pages 71, 1083, 1202, 1580, 2673, 2674, 2675, 2770, 2981, 2982, 3035, 3059, 3609, Act No. 94-602

Coosa-Alabama river improvement association, provided-

H. 179, pages 63, 101, 322, 323, 925, 943, 1074, Act No. 94-172

Coosa valley medical center school of nursing, provided-

H. 203, pages 67, 1081, 1200, 1543, 1544, 2324, 2333, 2356, Act No. 94-327

Corrections department, supplemental, provided-

H. 27, page 27

H. 191, pages 65, 102, 333, 1389, 1393, 1456, Act No. 94-193

Council on child abuse, provided-

H. 208, pages 68, 102, 335, 2669, 2772, 3055, Act No. 94-522

Daughters of the American revolution school, provided-

H. 167, pages 61, 148

Department of youth services for children's harbor, repealed and reappropriated-

H. 159, pages 59, 147

Diabetes trust fund, conditional, provided-

H. 732, pages 1191, 1901

Drug involved serious habitual offender program established in the office of prosecution services, provided-

H. 927, page 2374

East Alabama child development center, provided-

H. 214, pages 69, 1082, 1201, 1563, 1564, 1565, 2327, 2339, 2356, Act No. 94-333

Economic and community affairs department, provided-

H. 812, pages 1470, 1901, 2098, 2099, 2965, 2966, 3045, 3568, 3569, 3638, 3646, 3708, Act No. 94-684

Economic and community affairs department, supplemental, provided-

H. 591, page 625

Education budget, provided-

H. 193, pages 66, 1079, 1199, 1209, 1279, 1280, 1281, 1282, 1283, 1285, 1287, 1288, 1289, 1290, 1292, 1293, 1294, 1296, 1297, 1298, 1299, 1300, 1301, 1310, 1311, 1312, 1320, 1321, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1804, 1805, 1874, 1929, 2414, 2491, 2492, 2511, 2512, 2544, 2604, 2661, 2663, 2765, 2800, 3055, Act No. 94-470

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H. 195, pages 66, 1080, 1199, 1526, 1527, 1529, 2681, 2684, 2769,
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Educational resources, inc., provided-

H. 215, pages 69, 1083, 1201, 1566, 2327, 2340, 2356, Act No. 94-334

Elyton recovery center, provided-

H. 317, pages 122, 149, 1203, 1631, 1633, 2335, 2354, 2540, Act No.
94-360

Enterprise state junior college, supplemental, provided-

H. 277, page 113

Epilepsy foundation of Alabama, provided-

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94-519

Ethics commission, supplemental, provided-

H. 445, page 384

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Etowah county for youth symphony education program, provided-

H. 157, pages 59, 147

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fiscal office, legislative reference service, legislature and court of civil
appeals, conditional, supplemental, provided-**

H. 151, pages 57, 146

Exploreum museum of discovery, provided-

H. 216, pages 70, 1083, 1201, 1571, 2327, 2340, 2356, Act No. 94-335

Fairfield board of education, provided-

H. 578, page 570

Fairfield board of education, supplemental, provided-

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**Federal government, interest due as computed in accordance with cash
management improvement act of 1990, provided, finance director, to
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Forestry commission, supplemental, provided-

H. 190, pages 65, 102, 332, 1394, 1397, 1456, Act No. 94-194

Gadsden, city of, quest for excellence education program, provided-

H. 155, pages 58, 147

Gadsden state community college and Alabama state university, provided-

H. 44, pages 31, 838, 948, 949, 950, 951, 2662, 2752, Act No. 94-479

Gadsden state community college, Jefferson state community college, supplemental, provided-

H. 630, page 790

Gaines, Freddie Lee, restitution, provided-

H. 19, pages 26, 1414

General fund budget, provided-

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H. 194, pages 66, 1080, 1199, 1525, 2585, 2604, 2752, Act No. 94-475

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Health department, provided-

H. 251, pages 77, 1085, 1202, 1601, 1602, 1608, 1609, 2684, 2685, 2772, 3055, Act No. 94-525

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H. 318, pages 123, 1085, 1202, 1614, 1615

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Helen Keller eye research foundation, provided-

H. 217, pages 70, 1083, 1201, 1572, 2326, 2340, 2356, Act No. 94-336

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Fire and emergency medical districts, annual dues, referendum, ca-

H. 768, pages 1427, 1702, 1962, 1963, 1964, 2583, 2603, 2752, Act No. 94-353

Judge of probate, compensation, altered-

H. 904, pages 2174, 2553, 2777, 2778, 3621, 3629, 3708, Act No. 94-657

BOARD OF ADJUSTMENT

Firefighters who die from occupational disease, death benefits, administered by-

H. 359, pages 156, 484, 609, 610, 1678, 1679, 1890, Act No. 94-250

State employee injury compensation program, finance director may establish-

H. 305, pages 119, 369, 1727, 1997, 2525, 2526, 2527, 3626, 3643, 3708, Act No. 94-680

BOARD OF AUCTIONEERS

Education, research, and recovery fund, established-

H. 756, pages 1424, 1901

BOARD OF CHIROPRACTIC EXAMINERS

Members, election of, board reorganization, quorum, further provided-

H. 142, pages 55, 560

S. 81, pages 1775, 1904, 2329, 2810, 3082

BOARD OF COSMETOLOGY

Further provided-

H. 848, pages 1707, 2551

Membership, increased-

H. 899, page 2071

BOARDS OF EDUCATION

City and county, official records of personnel records of its employees, required to keep-

H. 512, pages 498, 562

City and county, written school policy, required to give to affected employees-

H. 371, pages 159, 562, 1729, 1999

City, members, altered-

H. 249, pages 77, 109, 593, 594, 595, 1121, 1136, 1182, Act No. 94-133

County, members, term of office reduced-

H. 674, pages 916, 1092

Local, breakfast and lunch programs, required to establish-

H. 821, pages 1626, 1902

Local, excellence in education, authorized to expend funds to honor, ca-

H. 403, pages 166, 562, 650, 733, 750, 2961, 3036, 3056, Act No. 94-446

Local, property, to convey to volunteer fire departments, authorized to-

H. 816, pages 1625, 1906, 2404, 3639, 3644, 3708, Act No. 94-681

Local, uniform dress program, authorized to implement-

H. 585, page 572

S. 49, pages 1778, 1779, 1906

State, members, compensation and expense allowance, further provided-

H. 747, pages 1195, 1664, 1997

State, rehabilitation services department and board of rehabilitation services, established, rehabilitation programs and services, transfer duties from-

H. 627, pages 722, 1416, 2412, 2413, 2414, 2509, 2510

State, rehabilitation services department, established, transfers functions subject to supervision by-

H. 628, page 722

BOARD OF EXAMINERS IN MARRIAGE AND FAMILY

Established-

H. 410, pages 168, 560, 1724, 1751

BOARD OF FUNERAL SERVICE

Persons with certain number of years service, director's exam, exempt from-
H. 776, page 1429

BOARD OF HEARING AID DEALERS

Sunset law review, continued-
S. 200, pages 684, 709, 1126, 1127, 1128, 1204, Act No. 94-180

BOARD OF HEARING INSTRUMENT DEALERS

Sunset law review, continued-
S. 200, pages 684, 709, 1126, 1127, 1128, 1204, Act No. 94-180

BOARD OF LICENSURE FOR GEOLOGISTS

Established-
H. 638, pages 791, 1091, 1726, 1995, 2018, 2019
S. 322, pages 3033, 3065

BOARD OF PHYSICAL THERAPY

Appropriation, supplemental, provided-
H. 84, pages 41, 362, 649, 732, 741, 742, 2764, 2946, 3055, Act No.
94-542

BOARD OF REGISTRARS

Compensation, increased-
H. 491, pages 429, 1086, 2250, 2251, 2253, 2254, 2255, 3639, 3648,
3708, Act No. 94-693

BOARD OF REGISTRATION FOR FORESTERS

Sunset law review, continued-
S. 198, pages 685, 709, 1118, 1122, 1145, Act No. 94-130

BOARD OF REHABILITATION SERVICES

Established-
H. 627, pages 722, 1416, 2412, 2413, 2414, 2509, 2510

BOARD OF SOCIAL WORK EXAMINERS

Licensing of bachelor social workers, education qualifications, altered-
H. 258, pages 78, 105, 550, 3661, 3662, 3682, 3709, Act No. 94-639

BOARD OF TRUSTEES

Alabama a&m university, members, decreased, meetings, further provided-
H. 694, pages 920, 1420

Educational, religious, or benevolent societies, graveyard owners or similar
groups, maximum membership-
S. 121, pages 1309, 1310, 1899, 2720, 2721, 2722, 2755, Act No.
94-573

BOARDING HOUSES

Regulated-
H. 352, pages 155, 490

BOATING SAFETY REFORM ACT

Established-
H. 260, pages 79, 364
S. 280, pages 1307, 1308, 1413, 2107, 2108, 2114, 2116, 2141, 2142,
2143, 2144, 2145, 2146, 2147, 2148, 2149, 2979, 2980, 2981, 3653,
3654, 3655, 3656, 3673, Act No. 94-652

BOATS AND BOATING

Boating safety reform act, established-
H. 260, pages 79, 364
S. 280, pages 1307, 1308, 1413, 2107, 2108, 2114, 2116, 2141, 2142,
2143, 2144, 2145, 2146, 2147, 2148, 2149, 2979, 2980, 2981, 3653,
3654, 3655, 3656, 3673, Act No. 94-652

Driving or operating under the influence, causing death of another, commits
crime of murder-
H. 20, pages 26, 105, 546, 547, 549, 815, 816, 817, 819

Marine police, arrest powers in dui cases, further provided-
H. 457, pages 387, 490

Marine sanitation, residence boats and vessels regulated, environmental
management department to administer-
H. 862, pages 1922, 2171

Sales and use taxes, taxed under motor vehicle statutes-
H. 123, pages 50, 149, 892, 2736, 2737, 2745, 3622, 3632, 3708, Act
No. 94-622

Trailers, motor vehicle licenses, exempt from-
S. 395, pages 1778, 2548, 2809

BONDS

Agricultural building authority, construction and renovation of buildings,
authorized to issue-
H. 771, pages 1428, 1664

Agriculture and industries board, dealers, fees for, amount of, which is to be
based on amount of gross sales, authorized to set-
H. 571, pages 569, 708

Bail reform act of 1994, established-
S. 328, pages 1774, 2170, 2808, 2989, 3081, 3557, 3559, 3560

High school of mathematics and science, authorized to issue-
H. 864, pages 1922, 2550

Municipalities, may pledge all or part of a tax increment in order to increase
the amount of, that may be issued-
H. 409, pages 168, 1090
S. 354, pages 3029, 3063

BOOTHE, JOHN ROBERT, JR.

Commended-
S.J.R. 9, pages 390, 421, 542, Act No. 94-54

BOWDEN, BOBBY

Commended-
H.J.R. 38, pages 135, 136, 145, 348, 374, 417, 860, Act No. 94-31

BOWDEN, TERRY

Commended-
H.J.R. 21, pages 20, 99, 153, 307, 356, Act No. 94-20

Joint session, invited to address-
H.J.R. 37, pages 134, 135, 144, 347, 373, 417, 860, Act No. 94-30

BOWLING, SHEENA

Commended-
H.R. 420, page 3050
H.J.R. 439, pages 3075, 3616, 3633, 3708, Act No. 94-628

BOYS AND GIRLS CLUBS OF AMERICA

Tax exemption, provided-
H. 574, page 570

BOYS & GHOULS TOGETHER

Director, cast and crew, commended-

H.J.R. 429, pages 3066, 3067, 3616, 3633, 3708, Act No. 94-654

BRADFORD, BUDDY

Commended-

H.J.R. 215, pages 1447, 1686, 2101, 2113, 2158, Act No. 94-303

BRADFORD, CHARLES R.

Commended-

H.R. 342, page 2347

H.J.R. 343, pages 2347, 2348, 2360, 2566, 2598, 2751, Act No. 94-424

BRADFORD, DOUG

Commended-

H.J.R. 90, pages 495, 530, 553, 567, 618, Act No. 94-74

BRAGG JUNIOR HIGH SCHOOL

Student teams, commended-

H.J.R. 330, pages 2263, 2264, 2358, 2359, 2576, 2601, 2751, Act No. 94-457

H.R. 331, page 2264

BRAGG, W. C.

Death mourned-

H.J.R. 308, pages 2150, 2151, 2164, 2566, 2597, 2751, Act No. 94-418

BROGDON, BYRON G.

Commended-

H.J.R. 192, pages 1071, 1072, 1079, 1207, 1209, 1318, Act No. 94-190

BROWN, SARAH MARIE

Death mourned-

H.J.R. 177, pages 907, 912, 1130, 1139, 1183, Act No. 94-148

BRUCE, LEONARD

Commended-

H.J.R. 230, pages 1624, 1625, 1683, 1748, 1891, Act No. 94-201

BUCKHORN HIGH SCHOOL

Girls' basketball team, commended-

H.R. 255, page 1884

H.J.R. 282, pages 1982, 1983, 2058, 2568, 2599, 2751, Act No. 94-438

BUDGET ISOLATION

Junior colleges, trade, vocational, technical schools, realignment and closure process, exemption from, provided-

H. 78, page 40

BUDGETS

Education, provided-

H. 193, pages 66, 1079, 1199, 1209, 1279, 1280, 1281, 1282, 1283, 1285, 1287, 1288, 1289, 1290, 1292, 1293, 1294, 1296, 1297, 1298, 1299, 1300, 1301, 1310, 1311, 1312, 1320, 1321, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1804, 1805, 1874, 1929, 2414, 2491, 2492, 2511, 2512, 2544, 2604, 2661, 2663, 2765, 2800, 3055, Act No. 94-470

General fund, provided-

H. 172, pages 62, 100, 200, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 308, 309, 310, 311, 312, 313, 314, 315, 316, 372, 373, 957, 958, 1060, 1393, 2840, 2944, 2953, 2954, 2955, 3018, 3039, 3056, Act No. 94-486

Legislature, appropriations, altered, regular sessions, annual, two, provided, duration, provided, constitutional amendments 339 and 448, repealed-

H. 4, page 22

Proration reduction trust fund, established, ca-

S. 451, pages 1774, 2760

BUGG, JUNE

Gadsden state community college and Alabama state university, appropriation, provided-

H. 44, pages 31, 838, 948, 949, 950, 951, 2662, 2752, Act No. 94-479

BUREAU OF VITAL STATISTICS

Paternity acknowledgment, procedure, established where attending physician, midwife, or hospital shall provide affidavit to unmarried mother and natural father which may be signed to acknowledge paternity-

H. 805, page 1466

BURGESS, RAY

Recognized posthumously-

H.J.R. 233, pages 1668, 1693, 2090, 2112, 2157, Act No. 94-290

H.R. 239, page 1672

BUSES

Motor carrier act, motor vehicle, exemption, provided-

H. 68, page 37

BUSINESS AND COMMERCE

Alabama title insurance act, title insurance business, further regulated-

H. 401, pages 166, 2171

Alcoholic beverages, importer licenses issued by abc board, residence and citizenship requirements, certain, removed-

H. 871, pages 1924, 2061

Alcoholic beverages, retail license in unincorporated area of county, abc board prohibited from issuing without county commission or circuit court approval-

H. 684, page 918

Architects, engineers, and licensed general contractors, professional liability for construction, limitation regarding, altered-

H. 341, pages 128, 488, 874, 875, 876, 883, 884, 890, 922, 1131, 1138, 1182, Act No. 94-138

Audiologists and speech therapists services, insurance reimbursement, provided-

H. 846, page 1706

Banks, only disclosure required under mini code are the ones required by superintendent of banks-

S. 419, pages 904, 913, 1101, 1102, 1131, Act No. 94-115

Beer, exclusive wholesaler's sales territory to conform to county lines, if more than one wholesaler in a county, the wholesaler with most sales receives exclusive territory, buy out procedure, provided-

H. 742, pages 1194, 1421, 1729

Boarding and rooming houses, regulated-

H. 352, pages 155, 490

Business corporation act, further amended-

H. 30, pages 28, 104, 462, 463, 1802, 1913, 2054, Act No. 94-245

BUSINESS AND COMMERCE (Continued)

Business enterprise and research program, established, small business, appropriation to, economic and community affairs department, to administer-

H. 590, pages 625, 785

Business franchises, regulation of, civil and criminal penalties, provided-

H. 465, pages 389, 488, 1729, 1999

Child labor laws, rewritten-

H. 353, pages 155, 485

S. 406, pages 1449, 3064

Commercial development authorities, established for all municipalities for downtown development of commerce and industry-

H. 402, pages 166, 712, 1726, 1996, 2319

S. 27, pages 577, 712, 2318, 2334, Act No. 94-323

Consumer loans or credit sales, late charge of five percent or two dollars whichever is greater-

S. 439, pages 3031, 3064

Contracts, competitive bids, which require, not to be awarded for more than 10 years, lease-purchase, all other, not to be awarded for more than five years-

H. 847, pages 1707, 1885, 1906

Contracts, real property, improvements on, payment by owners and contractors, payment in specified time, provided-

H. 820, pages 1626, 1904

Contracts, rescission of between principal agents to provide for method and time of payments of fees-

H. 544, pages 504, 564, 651, 734, 767, 769, 770, 787, 3639, 3648, 3708, Act No. 94-686

Corporations purchasing coal mined, sold, and used in Alabama, income tax credit provided-

H. 467, page 423

H. 879, pages 1926, 2062

Counties and municipal corporations, engaging in business without a license, fees and penalties, increased-

H. 93, pages 43, 108, 649, 731, 734, 735, 3701, 3707, 3709, Act No. 94-644

Credit cards, definition of expanded for purposes of illegal possession-

H. 702, pages 1094, 1904

BUSINESS AND COMMERCE (Continued)

Deceptive trade practices act, regulating promotional giveaways, campground membership, career consulting firms, loanbrokers, health spas, and odometers, provided-
H. 580, pages 571, 839

Enterprise zone act, applicable to businesses employing three or more, notwithstanding rules of economic and community affairs department-
H. 431, pages 381, 1415, 1725, 1765, 1766

Fair debt collection practices act, created-
H. 900, page 2071
S. 552, pages 3024, 3065

Hazardous materials, transportation through tunnels, prohibited, penalties, provided-
H. 623, pages 721, 1092, 1515, 1516

Industrial development, tax incentives to induce facilities to locate in state, repealed-
H. 11, page 24
H. 536, page 503

Industrial development, tax incentives to induce facilities to locate in state-
H. 12, page 24
H. 537, page 503

Insurance agents, may collect fee on unpaid balances of delinquent premiums-
H. 360, pages 156, 367, 605, 606, 608, 609
S. 83, pages 687, 688, 786, 896, 1061, Act No. 94-118

Insurance companies, examination procedures by insurance commissioner and department, established exemption from civil liability for civil damages for good faith actions, provided-
H. 138, pages 54, 561

Insurance contracts, including hmos, family coverage for newborns also shall include medically necessary early intervention care-
H. 330, page 126

Insurance holding company, system regulatory act, established for compliance with model act adopted by national association of insurance commissioners-
H. 131, pages 52, 367, 648, 657, 659, 677, 678, 700, 3626, 3643, 3708, Act No. 94-634
S. 56, pages 694, 786, 3082

BUSINESS AND COMMERCE (Continued)

Metal recyclers of nonferrous metals, records, required to keep, inspection by law enforcement officers, purchases and sales regulated, civil remedies to proper owner, criminal penalties, provided-

H. 302, pages 118, 563

S. 82, pages 574, 575, 2371

Motor vehicles, title or other evidence of ownership, certain, pawnshops, pledged goods not to include-

H. 566, page 537

Pawnshops, fees and licensing requirements altered-

S. 519, pages 1777, 1909

Savings bank law, merging savings and loans and banking activities, certain, locally and regionally, investment and loan regulations, licensure, penalties, provided-

H. 715, page 1098

Self-help business improvement districts, municipalities, authorized to establish, assessments, imposed-

H. 631, pages 790, 913, 1727, 1997

S. 465, pages 1449, 1450, 1699

Shrimping industry, regulations regarding poundage, location of catches, licensing-

S. 329, pages 1773, 1907, 2809, 3081, 3581, 3585, 3586, 3615, 3624, Act No. 94-618

Small business development commission, established,-

H. 489, pages 428, 563, 648, 678, 2000

Staff leasing services, regulated and licensed through industrial relations department-

H. 869, page 1924

Surplus line insurers who are not licensed to transact business in Alabama, regulated-

H. 338, pages 128, 367

Transient vendors, licensing of, further provided-

H. 455, page 387

H. 831, pages 1629, 1909

Unemployment compensation benefits, extension restrictions, eligibility, revocation, suspension and determination, provided-

H. 594, pages 625, 710, 1725, 1784, 1785, 3627, 3642, 3708, Act No. 94-718

BUSINESS AND COMMERCE (Continued)

Unemployment compensation benefits, maximum, increased-

H. 554, page 534

H. 905, page 2174

Unemployment compensation, disqualification for benefits for testing positive for drug usage-

H. 814, pages 1470, 1696, 2704, 2705, 2715, 2716, 2750, 3627, 3642, 3708, Act No. 94-719

Worthless checks, service charge, increased-

H. 697, pages 921, 2170

BUSINESS CORPORATION ACT

Further amended-

H. 30, pages 28, 104, 462, 463, 1802, 1913, 2054, Act No. 94-245

BUSKEY, JOHN LEE

Gadsden state community college and Alabama state university, appropriation, provided-

H. 44, pages 31, 838, 948, 949, 950, 951, 2662, 2752, Act No. 94-479

CAHABA ADVISORY COMMITTEE

Executive director, assistant director, promote old capitol site, staff authorized to-

H. 324, pages 124, 483, 1727, 1997, 2105, 2106, 3636, 3644, 3708, Act No. 94-703

CAIN, RALPH

Commended-

H.R. 189, page 1069

CALHOUN COUNTY

Ad valorem tax, delinquent, provided, ca-

H. 9, pages 24, 371, 444, 445, 1876, 1911, 2054, Act No. 94-203

Conduct or attire where alcoholic beverages are served, certain, prohibited-

H. 264, pages 110, 111, 371, 447, 1122, 1136, 1182, Act No. 94-132

Courts, circuit and district, court costs, additional, provided, distribution, provided-

H. 883, pages 2067, 2068, 2173, 2402, 3091, 3102, 3610, Act No. 94-604

CALHOUN COUNTY (Continued)

Economic development council, established, ca-
H. 797, pages 1464, 1703, 1974, 2803, 2953, 3056, Act No. 94-356

Municipal court, court costs, additional, distribution, provided-
H. 885, pages 2068, 2173, 2403, 2805, 2949, 3055, Act No. 94-548

Solid waste disposal sites, approval of, provided-
H. 278, pages 114, 371, 448, 511, 539, 584, 587

Tax collector and tax assessor may contract to assess and collect payments
in lieu of school taxes from industrial development authorities-
H. 80, pages 40, 371, 445, 446, 1123, 1137, 1182, Act No. 94-136

CAMP ALAMISCO

Taxes, state, county and municipal sales and use, all, exemption, provided-
S. 204, page 1638

CAMP ASCCA

Appropriation, provided-
H. 199, pages 67, 1080, 1200, 1535, 1536, 2300, 2304, 2356, Act No.
94-318

CAMP RAP-A-HOPE FOUNDATION, INC.

Taxes, sales and use, county and municipal, exemption, provided-
H. 340, page 128

CANNABIS

Possession of any mixture of, felony, provided-
H. 818, pages 1625, 2170

CANNON, LAKEESHA

Commended-
H.J.R. 326, pages 2182, 2183, 2576, 2601, 2751, Act No. 94-454

CAPITAL OFFENSES

Murder committed outside a dwelling or while victim is in motor vehicle or
the deadly weapon is fired or used within or from a vehicle, provided-
H. 269, page 112
H. 273, pages 113, 486, 2291, 2292, 3627, 3642, 3708, Act No. 94-649

CAPITAL PUNISHMENT

Death sentence cases, appeal directly to supreme court, bypassing court of criminal appeals-
H. 938, page 2763

CARJACKING

Crime of, established-
H. 935, page 2763

CARR, JOHNNIE

Commended-
H.J.R. 193, pages 1072, 1073, 1079, 1207, 1209, 1318, Act No. 94-191

CARROLLTON HIGH SCHOOL

Basketball team, commended-
H.R. 314, page 2154

CASH MANAGEMENT IMPROVEMENT ACT

Appropriation, interest payment, provided-
S. 209, pages 3021, 3062

CATFISH

Hatcheries, operation of, permit fee, increased-
H. 770, pages 1427, 1664

CATHY, S. TRUETT

Commended-
H.J.R. 280, pages 1980, 1981, 2058, 2568, 2599, 2751, Act No. 94-436

CAUDLE, LATOYA

Commended-
H.R. 404, page 2749

CAUSE OF ACTION

Wrongful birth, for, prohibited-
H. 498, pages 431, 479, 1420, 2811
H. 499, pages 431, 479, 1420

Wrongful death actions, preborn child, limitation period for death of minor and preborn child, provided-
H. 464, page 389

CEMETERIES

Boards of trustees for educational, religious, or benevolent societies, graveyard owners or similar groups, maximum membership-
S. 121, pages 1309, 1310, 1899, 2720, 2721, 2722, 2755, Act No. 94-573

Pre-need funeral services, trust funds established to provide-
H. 708, page 1096

CENTRAL ALABAMA OPPORTUNITIES INDUSTRIALIZATION CENTER

Appropriation, provided-
H. 183, pages 64, 1079, 1203, 1634, 1635, 2330, 2353, 2540, Act No. 94-357

Twenty-fifth anniversary, recognized-
S.J.R. 62, pages 1412, 1413, 1916, Act No. 94-219

CENTRAL HIGH SCHOOL

Football team, commended-
H.J.R. 69, pages 379, 420, 555, 566, 618, Act No. 94-63

Girls' basketball team, commended-
H.R. 288, page 1986

CEREBRAL PALSY HOUSING FOUNDATION

Appropriation, provided-
H. 225, pages 71, 1084, 1202, 1581, 1582, 1583, 2330, 2353, 2540, Act No. 94-359

CERTIFICATE OF NEED

Hospitals and health maintenance organizations, review, level of expenditures, raised-
H. 484, pages 427, 1090
S. 410, pages 1783, 1905, 2329, 2331, 2332, 2334, 2337, 2338, 2364, Act No. 94-369

Kidney disease treatment centers in municipalities, certain, requirement, exceptions, exemption, removed-
H. 636, pages 791, 1698

CERTIFICATE OF TITLE

Motor vehicles, designation on, regarding salvage or reconstruction-
H. 716, page 1098

CHANCELLOR OF POSTSECONDARY EDUCATION

Auburn University, junior and community colleges, upon approval of board of trustees and president of the college, merger provided-

H. 114, page 48

H. 535, page 502

S. 318, pages 2389, 3063

Northwest shoals community college at Phil Campbell, merge with university of north Alabama, authorized-

H. 61, page 36

CHAPMAN, KALYN EVEL

Commended-

H.J.R. 200, pages 1135, 1136, 1684, 2101, 2112, 2157, Act No. 94-296

CHARITIES

Alabama family trust fund corporation, established-

H. 453, page 386

Educational, religious, or benevolent societies, graveyard owners or similar groups, boards of trustees for, maximum membership-

S. 121, pages 1309, 1310, 1899, 2720, 2721, 2722, 2755, Act No. 94-573

Organizations, licensing by attorney general, provided-

H. 508, page 497

H. 562, pages 536, 1088, 2811

H. 670, page 864

Organizations, life insurance on individual, may purchase, with the individual's consent-

H. 300, pages 118, 367

S. 332, pages 1781, 1906, 2733, 2754, Act No. 94-576

State employee combined charitable campaign, distribution formula of undesignated funds, further provided-

H. 681, pages 917, 1090, 1999

CHATTAHOOCHEE VALLEY COMMUNITY COLLEGE

Basketball team, commended-

H.J.R. 386, pages 2589, 2760, 3088, 3100, 3610, Act No. 94-504

H.R. 389, page 2590

CHEAHA STATE PARK

Al Alexander building, named-
S.J.R. 84, pages 1795, 1896, 2020, Act No. 94-240

CHEMICALS

Hazardous, reporting, planning and response act of 1994, to implement
public law 99-499, provided-
H. 762, pages 1426, 1458

CHEROKEE COUNTY DIXIE YOUTH PROGRAM

Appropriation, provided-
H. 168, pages 61, 148

CHILD ABUSE

Children, physical, procedures for under age 16 same as for children under
age 16 in crimes of sexual abuse-
H. 527, pages 501, 1088, 1724, 1741, 1742, 3636, 3644, 3708, Act No.
94-704

Human resources department, county department investigation of, written
notice of final status and disposition shall be given to parent or custodi-
an of child subject to report-
S. 16, page 691

CHILD CARE

Commission, established-
H. 386, pages 162, 490, 1727, 1997

CHILD CUSTODY

Joint, authorized, custodial parent, child, certain age, may designate,
territorial restrictions, venue, tax treatment, visitation, support, provided-
H. 311, pages 121, 2170

CHILD SUPPORT

Awards, regulated-
H. 311, pages 121, 2170

Human resources department, attorneys representing, further provided-
H. 521, pages 500, 707, 1728, 1998

CHILD SUPPORT (Continued)

Income withholding orders, procedure to terminate without hearing, authorized-

H. 387, pages 162, 487, 1724, 1757, 1758, 1761, 3054, 3060, 3609, Act No. 94-589

Past due, civil action for, parent, guardian or human resources department, may bring-

H. 516, pages 499, 565, 649, 732, 741, 746, 747, 748, 757, 1678, 1679, 1890, Act No. 94-213

Paternity acknowledgment, procedure, established where attending physician, midwife, or hospital shall provide affidavit to unmarried mother and natural father which may be signed to acknowledge paternity-

H. 805, page 1466

Uniform parentage act, procedures, voluntary acknowledgement, genetic testing, presumptions, provided-

H. 487, pages 428, 487, 651, 733, 758, 759, 766, 3640, 3648, 3708, Act No. 94-705

CHILDREN

Abortion, parental consent, requiring consent of parent to be notarized or signed in presence of abortion provider based on proper identification, required-

H. 421, page 170

S. 250, pages 1771, 1905, 2810, 3081

Abuse or neglect, human resources department, county department investigation of, written notice of final status and disposition shall be given to parent or custodian of child subject to report-

S. 16, page 691

Adoption, final decree may not be collaterally attacked, provided-

H. 576, page 570

Child care commission, established-

H. 386, pages 162, 490, 1727, 1997

Child labor laws, rewritten, penalties-

S. 406, pages 1449, 3064

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Sections 9-11-46, 9-11-47, 9-11-48 and 9-11-49, relating to hunting licenses, deer season, nonresident, fees, further provided-
H. 281, pages 114, 562, 648, 678, 1727, 1995, 2012, 2013, 2762, 2945, 3055, Act No. 94-577

Section 9-11-53.1, relating to fishing licenses, resident, lifetime, holders may fish saltwaters-
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Section 9-11-245, relating to hunting from tree stand, legal game except wild turkey, with guns, authorized-
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S. 329, pages 1773, 1907, 2809, 3081, 3581, 3585, 3586, 3615, 3624, Act No. 94-618

Section 9-16-73, relating to surface mining commission, sunset law review-
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Section 9-17-100, relating to liquefied petroleum gas board, provisions, revised-

H. 293, pages 116, 370, 891, 892, 897, 898, 1647, 1676, 1890, Act No. 94-211

Section 10-2A-221, relating to corporations, foreign, fiduciary capacities for, expanded-

H. 443, pages 384, 490, 649, 732, 737, 2989, 3039, 3056, Act No. 94-588

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H. 256, pages 78, 106, 820, 821

Section 10-4-20, relating to church boards, trustees of, certain, number renamed, restrictions, provided-

H. 276, pages 113, 491

S. 121, pages 1309, 1310, 1899, 2720, 2721, 2722, 2755, Act No. 94-573

Section 11-3-4.1, relating to county commissions, members and chair, compensation, provided-

H. 460, pages 388, 712

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Section 11-18-3, relating to board of trustees for land and property, certain, membership, increased-

H. 691, pages 920, 1416

Section 11-24-1, relating to subdivisions, county commission regulation of, mobile home parks, inspectors, fees, included-

H. 102, pages 45, 108

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S. 115, pages 1772, 1773, 1909, 2811, 3082

Section 11-41-20, relating to Mobile county, municipalities, dissolution procedure, further provided-

H. 41, pages 31, 108, 452, 453, 1136, 1142, 1183, Act No. 94-167

Sections 11-41-24, 11-41-25 and 11-41-26, relating to municipal entities or corporations, water works services, acquiring or duplicating, prohibited-

H. 71, page 38

Section 11-43-144, relating to firefighters, death benefits, board of adjustment, administered by-

H. 359, pages 156, 484, 609, 610, 1678, 1679, 1890, Act No. 94-250

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Section 11-43-186, relating to law enforcement officers, municipal, salary, minimum, increased-
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Section 11-43A-9, relating to class 6 municipalities, redistricting of boundaries by city council for council seats, provided-
H. 794, pages 1463, 1908
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Section 11-43C-40, relating to class five municipalities, elected mayor-council form of government, appropriations, annual, increased-
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Section 11-45-1.1, relating to handgun violations, state laws, ordinance regarding, further provided-
H. 419, page 170
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Section 11-47-190, relating to municipalities, employees, acts, certain, immunity granted for-
H. 423, pages 171, 492, 894, 895, 3686, 3706, 3709, Act No. 94-641

Section 11-50-1.1, relating to relating to municipal entities or corporations, water works services, acquiring or duplicating, prohibited-
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Sections 11-50-313 and 16-11-2, relating to class 4 municipalities, boards of education and waterworks and sewer boards, membership, altered-
H. 249, pages 77, 109, 593, 594, 595, 1121, 1136, 1182, Act No. 94-133

Section 11-50-322, relating to water, sewer, gas or electric systems, public corporations, formed to operate, tax exemption, provided-
H. 718, pages 1099, 1417, 1999, 2581, 2582, 3669, 3670, 3702, 3709, Act No. 94-711

Section 11-50-393, relating to gas districts, municipalities, organized by, fee and members, further provided-
H. 873, pages 1925, 2172

Sections 11-51-90 and 11-51-93, relating to corporations, county and municipal, engaging in business without a license, fees and penalties, increased-
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Section 11-52-3, relating to Birmingham, planning commission, compensation, provided-

H. 490, pages 429, 914, 1167, 1168, 3688, 3706, 3709, Act No. 94-672

Section 11-52-77, relating to municipalities, ordinances and amounts for zoning in alternate form, notice of, provided-

H. 384, pages 162, 492, 1726, 1996, 2032, 2033, 2035

Sections 11-54-170 and 11-54-171, relating to commercial development authorities, established-

H. 402, pages 166, 712, 1726, 1996, 2319

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Sections 11-58-1, 11-58-2, 11-58-3, 11-58-4, 11-58-5, 11-58-7, 11-58-12 and 11-58-13, relating to medical clinic boards, incorporation by counties, authorized-

H. 16, pages 25, 108, 589, 590, 601, 602, 623, 3689, 3706, 3709, Act No. 94-642

Sections 11-67-20, 11-67-21, 11-67-22, 11-67-25 and 11-67-26, relating to class 5 municipalities, weeds, abatement of nuisances, class 6 municipalities, included-

H. 127, pages 51, 712

Section 11-85-56, relating to regional planning and development commissions, powers and duties, expanded-

H. 605, pages 629, 708, 1727, 1997

S. 87, pages 577, 839, 2724, 2756, Act No. 94-574

Section 11-88-7, relating to water, sewer and fire authorities, members who serve as managers, compensation, provided-

H. 274, pages 113, 1700

Section 11-96A-2, relating to housing provided to low or moderate income persons or families by municipal or county governing bodies, income criteria, altered-

H. 788, pages 1462, 1699, 2290, 3623, 3634, 3708, Act No. 94-676

Section 11-98-5, relating to emergency districts, funds, authorized to use to purchase, install and maintain street and road signs to facilitate operation of emergency service number regions-

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Section 11-99-6, relating to municipalities, tax increment, may pledge all or part of, to increase the amount of bonds that may be issued-

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Section 12-2-1, relating to supreme court, election from districts, provided-
H. 592, page 625

Sections 12-3-2 and 12-3-4, relating to court of civil appeals, court of
criminal appeal, districts, election from, provided-
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court, appeal directly to, court of criminal appeals, bypassed-
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Sections 12-15-13, 16-1-14, 16-1-24.1, 16-3-11, 16-3-15, 16-3-17.1,
16-3-17.2, 16-3-18.2, 16-3-18.3, 16-3-18.4, 16-3-18.5, 16-3-20.1,
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16-60-111.8, relating to revised Alabama education improvement act of
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16-3-18.2, 16-3-18.3, 16-3-18.4, 16-3-20.1, 16-4-1, 16-4-4, 16-4-7,
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H. 808, pages 1466, 2166

Section 12-16-63, relating to jurors, age 70 and older, election not to service, provided-
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Section 12-17-94, relating to defendants, court-ordered money collected from, unified judicial system, appropriation to, provided-
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H. 855, pages 1708, 2549

Section 12-17-274, relating to court reporters, compensation, increased-
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Section 13A-5-40, relating to murder, committed outside a dwelling, while victim in motor vehicle or the deadly weapon fired for used within or from a vehicle, capital offense, provided-

H. 269, page 112

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Section 13A-6-2, relating to driving motor vehicle or operating a boat under the influence, causing death of another person, crime of murder, provided-

H. 20, pages 26, 105, 546, 547, 549, 815, 816, 817, 819

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H. 598, pages 627, 1418

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H. 689, pages 919, 2168

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Section 13A-6-21, relating to state employee, assault of, by prison inmate, punishment, defined-

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Section 13A-10-2, relating to obstruction of governmental operations by person with a firearm, class c felony, provided-
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H. 573, pages 569, 707, 2540

Section 13A-11-70, relating to crime of violence, any felony involving danger or injury to a person, included-
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Sections 13A-11-75, 14-6-1, 14-6-4, 14-6-5, 14-6-6, 14-6-92 and 14-6-101, relating to sheriffs, receipt of federal prisoners and fugitive prisoners, cost and care reimbursement, further provided-
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Section 13A-12-200.1, relating to anti-obscenity enforcement act, dancing, topless, bottomless or nude, violative of-
H. 25, pages 27, 104, 519, 520, 521, 522, 523, 524, 526

Section 13A-12-213, relating to marihuana, possession of in first degree, if person is in possession of marihuana after having been previously convicted of an offense involving a controlled substance-
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Section 15-10-3, relating to arrests without warrants, crime committed on school property, authorized-
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Sections 15-12-1, 15-12-4 and 15-12-25, relating to indigent defense services, contract counsel system, county use, provided-
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Section 15-13-80, relating to bail system, substantially revised-
S. 328, pages 1774, 2170, 2808, 2989, 3081, 3557, 3559, 3560

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H. 599, page 627

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H. 527, pages 501, 1088, 1724, 1741, 1742, 3636, 3644, 3708, Act No. 94-704

Sections 16-1-1, 16-1-14, 16-1-24.1, 16-21-1, 16-23-3, 16-23-5, 16-23-14, 16-24-1, 16-28-6, 16-28-12 and 36-26-100, relating to Alabama first: a plan for academic excellence act of 1994, established-

S. 75, pages 527, 528, 705

Sections 16-1-18, 16-8-25, 16-12-21 and 21-1-21, relating to educational employees, sick leave and transfer of, further provided-

S. 637, pages 3032, 3064

Section 16-2-1, relating to superintendent of education, state, appointment by governor, provided-

H. 792, page 1462

Sections 16-3-8 and 16-3-9, relating to board of education, state, members, compensation and expense allowance, further provided-

H. 747, pages 1195, 1664, 1997

Section 16-5-8, relating to articulation agreement, institutions of higher education, provided-

H. 505, pages 496, 562, 947, 948, 955, 956, 957, 1656, 1676, 1890, Act No. 94-202

Section 16-7-2, relating to educational television commission, members, per diem, provided-

H. 77, pages 39, 362, 1728, 1998

Section 16-8-2, relating to boards of education, county, members, terms reduced-

H. 674, pages 916, 1092

Sections 16-8-10 and 16-11-18, relating to boards of education, county and city, written school policy, required to give to affected employees-

H. 371, pages 159, 562, 1729, 1999

Section 16-8-12, relating to boards of education, property, authorized to convey to volunteer fire departments-

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Section 16-22-1, relating to Talladega college, police officers, persons employed as, qualifications, required-
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Section 16-25A-17, relating to health insurance, education employees, retired, contributions, increase in, provided-
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Section 16-26A-4, relating to high school of mathematics and science, bonds, authorized to issue-
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Section 16-45-4, relating to marine environmental sciences consortium, board of directors, chief officer of member institution, replacement, authorized to designate-
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Section 16-47-10, relating to university of Alabama, police officers, arrest powers, regulated-
H. 266, pages 111, 485, 648, 678, 679, 681, 682, 701

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Sections 16-49-20 and 16-49-26, relating to Alabama a&m university, board of trustees, members, decreased, meetings, further provided-
H. 694, pages 920, 1420

Section 17-1-7, relating to law enforcement officers, political activities during work hours, prohibited-
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Section 17-4-153, relating to boards of registrars, compensation, increased-
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Section 17-4-156, relating to Marengo county, board of registrars, meeting days, altered-

H. 552, pages 533, 1093, 2084, 2700, 2774, 3055, Act No. 94-530

Section 17-4-156, relating to Marion county, board of registrars, meeting days, altered-

H. 250, pages 77, 363, 848, 849, 1677, 1679, 1890, Act No. 94-249

Section 17-4-156, relating to St. Clair county, board of registrars, meeting days, altered-

H. 29, pages 28, 483, 849, 850, 1677, 1679, 1890, Act No. 94-248

Section 17-4-156, relating to Talladega county, board of registrars, meeting days, altered-

H. 860, pages 1922, 2066, 2244, 2803, 2951, 3056, Act No. 94-560

Section 17-4-156, relating to Tallapoosa county, board of registrars, working days, further provided-

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Sections 17-4-189, 17-4-211 and 17-4-214, relating to voter registration, "motor-voter" federal act, implementation of, provided-

H. 242, page 75

S. 101, pages 688, 1091, 3082

Section 17-6-13, relating to election officers, compensation, further provided-

H. 471, page 424

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Sections 17-10-3, 17-10-4, 17-10-5, 17-10-7, 17-10-12, 17-10-17, 17-12-1, 17-12-2, 17-12-3, 17-12-7 and 17-12-8, relating to absentee voting, administration, further provided-

H. 121, pages 49, 368, 648, 678

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Section 17-10-11, relating to election officials, staff, necessary to process and canvass absentee ballots, appointment, provided-

H. 817, pages 1625, 2371, 2810, 3017, 3034, 3041, 3625, 3635, 3708, Act No. 94-692

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Sections 17-16-25 and 17-16-50, relating to county executive committees of political parties, chairpersons of, voter registration lists, provided to-

H. 367, pages 158, 546, 711, 1065, 1066, 1180, 1181

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Section 17-20-1, relating to congressional districts, reapportioned-
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Section 21-7-4, relating to disabled persons, assistance dogs, provided-
H. 26, pages 27, 104, 518, 519, 1201

Section 22-14-5, relating to radiation advisory board, veterinarian, included-
H. 331, pages 126, 366

Section 22-19-60, relating to anatomical gifts, further provided-
H. 811, pages 1469, 1697

Section 22-21-8, relating to value improvement partnership, established-
H. 45, pages 32, 107, 825, 1114

Sections 22-21-260 and 22-21-263, relating to hospitals and health maintenance organizations, certificate of need review, expenditures, level of, raised-
H. 484, pages 427, 1090
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Section 22-21-265, relating to health care facilities, bed number, increased, certificate of need requirement, removed-
H. 611, pages 718, 785, 850, 851, 855, 856, 1790, 1791, 1882, 2053,
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Section 22-21-278, relating to kidney disease treatment centers, municipalities, certain, certificate of need requirement, exemption, removed-
H. 636, pages 791, 1698

Sections 22-27-1, 22-27-2, 22-27-3, 22-27-5 and 22-27-48, relating to solid waste collection, counties and municipalities, to provide-
H. 707, pages 1096, 1907

Section 22-28-22, relating to air pollution control act, violations, fines prescribed-
H. 481, pages 427, 1092, 2517, 2518

Section 22-52-10, relating to mental health officers, appointment by probate judge to examine a respondent during involuntary commitment proceedings, provided-
H. 754, pages 1197, 1418

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Section 23-1-5, relating to utilities, minimum gross income of utilities eligible for relocation assistance on highway projects, certain, provided-
H. 830, pages 1629, 1700, 1995, 2014, 2015, 2016
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Section 23-1-50.1, relating to air transportation division, finance department, equipment, certain, transferred to transportation department-
H. 748, pages 1195, 1908, 2411, 2412, 3640, 3648, 3708, Act No. 94-689

Section 25-4-72, relating to unemployment compensation, benefits, maximum, increased-
H. 554, page 534
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Sections 25-4-75 and 25-4-77, relating to unemployment compensation benefits, extension restrictions, eligibility, revocation, suspension and determination, further provided-
H. 594, pages 625, 710, 1725, 1784, 1785, 3627, 3642, 3708, Act No. 94-718

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Section 33-5-24, relating to marine police, arrest powers in DUI cases, further provided-

H. 457, pages 387, 490

Section 34-4-30, relating to auctioneers' education research and recovery fund, established-

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Sections 34-7-1, 34-7-2, 34-7-4, 34-7-5, 34-7-7, 34-7-11, 34-7-12, 34-7-16, 34-7-21, 34-7-24, 34-7-25, 34-7-40, 34-7-41, 34-7-42 and 34-7-47, relating to board of cosmetology and barbering, further provided-

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Section 34-8-28, relating to general contractors, fees, distribution to colleges, certain, altered-

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Section 34-11-8, relating to engineers and land surveyors, over age 65, licensure fee and continuing education requirements, exemption from, provided-

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Sections 34-24-140, 34-24-141 and 34-24-144, relating to chiropractors examiners board, members, election of, board, reorganization, provided-

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Sections 34-27A-2, 34-27A-3, 34-27A-5, 34-27A-6, 34-27A-7, 34-27A-8, 34-27A-9, 34-27A-10, 34-27A-11, 34-27A-12, 34-27A-13, 34-27A-14, 34-27A-15, 34-27A-16, 34-27A-17, 34-27A-18, 34-27A-19, 34-27A-20, 34-27A-22, 34-27A-23, 34-27A-24, 34-27A-25, 34-27A-26, 34-27A-27 and 34-27A-29, relating to real estate appraisers board, licensing, further provided-

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Sections 34-37-4 and 34-37-5, relating to plumbers and gas fitters examining board, deputy director, appointment of, duties, compensation, provided-

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Section 35-4-411, relating to conveyances, names of parties or actual consideration, required to be included, eliminated-

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Section 36-1A-6, relating to state employee combined charitable campaign, undesignated funds, distribution formula, further provided-
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Section 36-6-291, relating to military retirees, license plates, distinctive, authorized for-
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Sections 36-13-5, 41-21-1, 41-21-4, 41-21-5, 41-21-6, 41-21-7 and 41-21-8, relating to code of Alabama, competitive bid laws, not subject to, code commissioner to copyright, sale price, legislative council and publisher to set, compilations, regulated, distribution, altered-
H. 837, page 1704

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Section 36-21-8, relating to criminal justice information center, law enforcement officers, badge and pistol, authorized to keep upon retirement-
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Section 36-21-10, relating to deputy sheriffs, fulltime, compensation, set-
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Section 36-21-66, relating to peace officers' annuity and benefit fund, investment of funds, further provided-
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Sections 36-25-1, 36-25-3, 36-25-4, 36-25-5, 36-25-6, 36-25-7, 36-25-10, 36-25-12, 36-25-13, 36-25-15, 36-25-18, 36-25-23 and 36-25-27, relating to state ethics law, substantially altered-

H. 824, page 1627

Section 36-26-18, relating to state merit system, provisional appointments, further provided-

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Section 36-27-51, relating to employees' retirement system, members, retired, certain, service credit for time served with a nonparticipating local agency, authorized to purchase-

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H. 259, pages 79, 2548

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Section 37-1-18, relating to consumer utility rate hearing fund, public service commission, appropriation to, attorney general, use by, provided-

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Section 37-2-84, relating to railroad grade crossings, further provided-

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Section 37-3-4, relating to motor carrier act, motor vehicle, exemption,
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37-3-22, relating to motor vehicles, common and contract carriers,
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health or safety, regarding, further provided-

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Section 38-4-12, relating to veterans nursing homes in Bay Minette and
Huntsville, appropriation from state insurance fund, provided-

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Section 40-12-84, relating to contractors, license renewal, delinquent, penalties and interest for, exemption, provided-

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Section 40-12-139, relating to vendors, transient, licensing of, provided-

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Section 40-12-248, relating to farm trucks, up to 80,000 pounds, license tax, special, registration fee, provided-

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Section 40-12-252, relating to boat trailers, motor vehicle licenses, exemption, provided-

S. 395, pages 1778, 2548, 2809

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Section 40-13-6, relating to Fayette county, state coal severance tax, appropriation to county general fund-

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Sections 40-14-4 and 40-14-21, relating to business corporation act, further provided-

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Sections 40-16-1, 40-18-15, 40-18-21, 40-18-38, 40-18-71 and 40-18-82, relating to industrial development, tax incentives to induce facilities to locate in state-

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Section 40-18-15, relating to income tax laws, provisions, certain, conformed to federal income tax laws-

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Section 40-20-8, relating to oil and gas severance tax, submerged lands, treatment, further provided-

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Section 40-21-82.1, relating to Russell county and Bakerhill water authorities, utility sales tax, exemption, provided-

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Section 40-21-120, relating to telephones, cellular, public service commission, regulation by, provided-

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Section 40-23-1, relating to sales tax, goods withdrawn from inventory and not for permanent use, not levied on-

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Section 40-23-2, relating to football playoffs conducted by primary and secondary public schools, tax exemption, further provided-

H. 291, pages 116, 363, 649, 732, 740, 741, 2702, 2774, 3055, Act No. 94-529

Sections 40-23-2 and 40-23-61, relating to music, copyrighted, playing, persons and businesses engaged in, sales tax, levied-

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Section 40-23-4, relating to natural gas, used by persons, certain, for agricultural purposes, tax exemption, provided-

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Section 40-23-4, relating to sales and use tax exemptions, certain, repealed, revenue redistributed-

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Section 40-23-5, relating to hospital corporations, nonprofit, county, taxation, sales and use, certain, exemption, provided-

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H. 324, pages 124, 483, 1727, 1997, 2105, 2106, 3636, 3644, 3708,
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Sections 41-9-320, 41-9-325, 41-9-326, 41-9-327, 41-9-328 and 41-9-330,
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Section 41-9-644, relating to criminal justice information center, criminal records inspection fee, increased-
H. 439, pages 383, 1663

Sections 41-9-741, 41-9-742 and 41-9-744, relating to senior citizens hall of fame, membership and quorum, further provided-
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Section 41-10-44.4, relating to industrial development authority, criteria used to determine an approved company, further provided-
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Section 41-16-50, relating to colleges and universities, contracts let by, resident bidders, preference for, further provided-
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Section 41-16-51, relating to school supplies, certain, competitive bids, not required-
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Section 41-16-52, relating to competitive bids, contracts, vehicles with gross weight, certain, repair parts, repair or lease of, exemption, provided-
H. 380, pages 161, 1089

Section 41-16-57, relating to competitive bids, contracts requiring, ten years, not to be awarded for more than, lease-purchase, all other, not to be awarded for more than five years-
H. 847, pages 1707, 1885, 1906

Section 41-16-57, relating to competitive bids, county or municipality, ten percent preference given to-
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Section 41-16-123, relating to educational television commission, surplus broadcasting and production equipment, disposal of, provided-
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S. 292, pages 581, 582, 708, 2085, 2086, 2141, Act No. 94-305

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Marengo, election on emergency e-911 telephone service, county commission, authorized to call-

H. 835, pages 1704, 1909, 2078, 2079, 2584, 2602, 2751, Act No. 94-464

Marion, board of registrars, meeting days, altered-

H. 250, pages 77, 363, 848, 849, 1677, 1679, 1890, Act No. 94-249

Mobile, arts and sports association and greater gulf state fair, sales and use taxes, exemption, provided-

H. 236, pages 73, 74, 372, 448, 511, 1060, 1067, 1074, Act No. 94-119

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Mobile, board of education, funds to Semmes youth athletic association, authorized to appropriate-
H. 728, pages 1190, 1703, 1976, 1977

Mobile, civil service system, vacancies filled by appointing authority-
S. 397, pages 729, 730, 1094, 1442, 1443, 1557, Act No. 94-197

Mobile, dog racing commission, funds, distribution, further provided-
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Mobile, junkyards, licensing of, accumulation of junk, public nuisance, deemed-
H. 40, pages 30, 31, 565, 641, 642, 643, 1749, 1879, 1891, Act No. 94-216

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H. 929, pages 2374, 2375, 2553, 2779, 2780, 3623, 3632, 3708, Act No. 94-701
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Montgomery, employees, thirty year retirement, provided-
H. 822, pages 1626, 1627, 1703, 1977, 1978, 3091, 3102, 3610, Act No. 94-569
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Montgomery, sheriff and deputies, badge and gun, authorized to receive upon retirement-
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S. 421, pages 727, 728, 1421, 1488, 1489, 1557, Act No. 94-198

Perry, county commissions, terms, increased-
S. 608, pages 1988, 2172, 2396, 2493, Act No. 94-371

Pickens, coroner, salary, county commission, to set-
H. 783, pages 1460, 1461, 1702, 1968, 2584, 2602, 2751, Act No.
94-463

Pickens, driveways, certain, county commission, authorized to maintain-
H. 680, pages 917, 1185, 1479, 2366, 2496, 2541, Act No. 94-381

Pickens, tax, special county privilege, levied, distribution-
H. 57, pages 35, 109, 190, 638, 658, 698, Act No. 94-86

Randolph, board of health, fees and services, provided-
H. 629, pages 789, 840, 934, 2366, 2495, 2541, Act No. 94-380

Randolph, court costs, increased, distribution, provided-
H. 858, pages 1921, 2065, 2227, 2228, 2802, 2951, 3056, Act No.
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Randolph, sales and use tax, levied, referendum-
H. 859, pages 1921, 2065, 2228, 2229, 2802, 2951, 3056, Act No.
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Russell, fire districts, establishment of, provided-
H. 96, pages 44, 109, 192, 193, 589, 596, 618, Act No. 94-81

Shelby, civil service system, operations manager, removed from-
H. 881, pages 1927, 2066, 2237, 2238, 2805, 2949, 3056, Act No.
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Shelby, judicial assistants to circuit and district judges, compensation,
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H. 907, pages 2174, 2175, 2372, 2577, 2578, 2579, 2585, 3092, 3101,
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Shelby, law enforcement personnel board, members, compensation, further
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H. 870, pages 1924, 2066, 2233, 2584, 2603, 2752, Act No. 94-468

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Shelby, realtors, license tax, municipalities, authorized to levy-

H. 789, pages 1462, 1702, 1969, 2367, 2499, 2541, Act No. 94-341

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Shelby, sales tax, revenues from, distribution, further provided, ca-

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St. Clair, board of registrars, meeting days, altered-

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St. Clair, sheriff, personnel, compensation, further provided-

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Sumter, board of health, services, certain, authorized to levy fees for-

H. 428, pages 172, 173, 371, 442, 443, 731, 751, 779, Act No. 94-96

Sumter, county future fund, trustees of, proceeds, authorized to invest-

H. 930, pages 2375, 2553, 2780, 2781, 2783, 3623, 3632, 3708, Act No. 94-700

Sumter, court costs, validated, ca-

H. 429, pages 173, 371, 443, 444, 731, 749, 779, Act No. 94-85

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Sumter, hazardous waste fees, collected, distribution-

H. 784, pages 1461, 1702, 1973, 2694, 2695, 2774, 3055, Act No. 94-531

Talladega, board of registrars, compensation, further provided-

H. 737, pages 1192, 1423, 1506, 2369, 2498, 2541, Act No. 94-400

Talladega, board of registrars, meeting days, further provided-

H. 860, pages 1922, 2066, 2244, 2803, 2951, 3056, Act No. 94-560

Talladega, highway fund, funds from, county commission, authorized to expend-

H. 396, pages 165, 1185, 1521, 1522, 2370, 2498, 2541, Act No. 94-397

Talladega, judge of probate, recording and indexing fees, taxes for real property instruments, required to collect, distribution-

H. 395, pages 164, 1422, 1492, 1493, 2370, 2498, 2541, Act No. 94-396

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Talladega, licenses, delinquent, penalties, fees and interest, payment of further provided-

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Tallapoosa, board of registrars, working days, further provided-

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Tallapoosa, courts, costs and charges of, altered, ca-

H. 48, pages 32, 564, 638, 639, 1874, 1912, 2054, Act No. 94-205

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Tallapoosa, fire protection districts, established-

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Tuscaloosa, chief deputy sheriff, compensation, further provided-

H. 896, pages 2070, 2173, 2401, 2805, 2950, 3055, Act No. 94-552

Tuscaloosa, chief jailer, appointment and compensation, further provided-

H. 897, pages 2071, 2173, 2407, 2408, 2409, 2410, 3091, 3102, 3610, Act No. 94-568

Tuscaloosa, county commission, limited powers of home rule, granted-

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Tuscaloosa, fire protection, outside police jurisdiction, cities authorized to provide-

H. 914, page 2177

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Tuscaloosa, gas tax, distribution, altered-

H. 913, pages 2176, 2177

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Tuscaloosa, sales and use tax, further provided-

H. 902, pages 2072, 2172, 2399, 2400, 2806, 2950, 3055, Act No. 94-554

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Walker, civil service board, members, per diem, provided-

H. 886, pages 2068, 2172, 2397, 3096, 3103, 3610, Act No. 94-571

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Walker, employees, personal leave day, granted-

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Washington, ad valorem tax, volunteer fire associations and departments, central communication agency for 911, distribution to, provided-

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Winston, county commission, re-established, chair and associate commissioners, election of, provided-

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Winston, probate judge and county officials, other, compensation, court charges, fees, further provided, ca-

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Alcoholic beverages, retail license in unincorporated area of county, abc board prohibited from issuing without approval of-

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Housing provided to low or moderate income persons or families by, income criteria, altered-

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Members and chair compensation, altered-

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Members, may take off work one day per month to attend county commission meetings without being charged leave-

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Subdivisions, regulation of, to include mobile home parks-

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Municipal governing bodies, for operation of jails, additional, authorized to levy-

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Minors, ages 14 and above, class a felony, charged with, transferred to
criminal court if age 16, mandatory, discretionary If age 14 to 16-
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Handgun violations, state law, ordinance regarding, jurisdiction of provided-

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Deeds filed in, for recordation, address of grantee required-

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Death sentence cases, appeal directly to, bypassing court of criminal appeals-

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Juveniles in possession of pistol, parents providing juvenile with, minimum mandatory detention of juvenile, required, criminal penalties, established-

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Juveniles, crimes committed by, defined as under 16 years, criminal court to have jurisdiction in proceeding those over 16, transfer of cases, provided-

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Minors, ages 14 and above, class a felony, charged with, transferred to criminal court if age 16, mandatory, discretionary if age 14 to 16-

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Motor fuel marketing act, portion of penalties collected shall go to the office of district attorney which brought the action-

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Murder committed outside a dwelling or while victim is in motor vehicle or the deadly weapon is fired or used within or from a vehicle, capital offenses-

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Peace officer, or employee of educational institution, assaulting, crime of, changed from a misdemeanor to felony, police dog, crime of assaulting to be a misdemeanor, provided-
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Sentencing, additional, total, limited to 20 years where no injury or drug trafficking in conviction or previous conviction for those crimes, prisoners, others, certain, release, provided-
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Bail reform act of 1994, established-

S. 328, pages 1774, 2170, 2808, 2989, 3081, 3557, 3559, 3560

Colleges and universities, use of facilities or funds to persons who are violating the law, prohibited from granting-

H. 863, page 1922

Crime of violence to include any felony involving danger or injury to a person, provided-

H. 806, pages 1466, 1903

Crime victims over age 70, deposition in lieu of live testimony, notice, costs-

H. 407, pages 167, 707, 899, 902, 922

Crime victims, rights provided-

S. 650, pages 3022, 3064

Crime victims, rights, provided, ca-

H. 688, pages 919, 1089, 1726, 1996, 2036, 2037, 2038, 2516, 2519, 2542, Act No. 94-349

Felons and sex offenders, registration of, uniform system by criminal justice information center, pardons and paroles board to notify sheriff and district attorney of paroles-

H. 408, page 167

Firing a weapon into a crowd and killing a person, capital offense, provided-

H. 936, page 2763

Game and fish, interfering with persons who are legally hunting, trapping, or participating in other legal wildlife recreation, prohibited, class b misdemeanor, provided-

H. 844, pages 1706, 1907, 2283, 2284, 2285

S. 9, pages 691, 692, 710, 2284, 2323, Act No. 94-321

Habitual offenders, repeat felony offenders committing felony of same type, to be sentenced to life-

H. 32, page 29

CRIMINAL PROCEDURE (Continued)

Indigent defense services, contract counsel system, county use, provided-
H. 485, pages 427, 1418, 1728, 1998, 2492, 2493
S. 86, pages 582, 1419

Jurors, aged 70 and older, may elect not to serve, provided-
H. 600, pages 628, 1089

Justice information center, criminal records inspection fee, increased-
H. 439, pages 383, 1663

Justice information center, policies, certain, further provided-
H. 482, pages 427, 487, 1726, 1996, 2039, 2040, 2768, 2945, 3055,
Act No. 94-578

Minors, ages 14 and above, class a felony, charged with, transferred to
criminal court if age 16, mandatory, discretionary if age 14 to 16-
H. 433, pages 382, 486, 1063, 2303, 2305, 2306, 2319, 2321, 2972,
2973, 3037, 3056, Act No. 94-481

Murder committed outside a dwelling or while victim is in motor vehicle or
the deadly weapon is fired or used within or from a vehicle, capital
offenses-
H. 269, page 112
H. 273, pages 113, 486, 2291, 2292, 3627, 3642, 3708, Act No. 94-649
H. 787, pages 1461, 1700

School property, crime committed on, arrests without warrants, authorized-
H. 480, page 426

Sentencing, additional, total, limited to 20 years where no injury or drug
trafficking in conviction or previous conviction for those crimes,
prisoners, others, certain, release, provided-
H. 518, page 499

CROSS, BERTCHIE

Road, named-
S.J.R. 116, pages 2352, 2353, 2362, 2495, Act No. 94-378

CULLINS, JAMES

Commended-
H.J.R. 284, pages 1984, 2059, 2569, 2599, 2751, Act No. 94-440

CULLMAN

Board of education, election, provided, ca-
H. 106, pages 46, 372, 450, 2963, 3037, 3056, Act No. 94-447

CULLMAN COUNTY

District judge, additional, election, duties, compensation, provided-
H. 115, pages 48, 1415, 1999, 2241, 2243, 3626, 3643, 3708, Act No.
94-679

CUNNINGHAM, EARL C.

Commended-
H.J.R. 270, pages 1917, 2088, 2111, 2158, Act No. 94-281
H.R. 271, page 1918

CURRICULUM

Phonics, to be taught more in schools, right to read act, established-
H. 567, page 538

CURRY, LAURA

Commended-
H.R. 155, page 802

DALLAS COUNTY

Gasoline tax, additional, county commission, authorized to levy-
H. 925, pages 2373, 2374, 2555, 2832, 2833, 3674, 3703, 3709, Act
No. 94-712

Sheriff, compensation, altered-
H. 924, pages 2373, 2555, 2831, 2832, 3621, 3629, 3708, Act No.
94-656

Tax assessor, tax collector, revenue commissioner business in, special
transaction fee, on, additional, provided-
H. 923, pages 2373, 2555, 2830, 2831, 3619, 3631, 3708, Act No.
94-669

DAUGHTERS OF THE AMERICAN REVOLUTION SCHOOL

Appropriation, provided-
H. 167, pages 61, 148

DAUPHIN ISLAND

Park and beach board, public corporation, new, reconstituted as-
H. 240, pages 74, 372, 448, 513

DAVIS, MARY L**Commended-****H.R. 60, page 351****H.R. 77, page 472****DEAF****Interpreters and transliterators board, established-****H. 625, page 721****DEATH****Board of funeral services, persons with certain number of years service exempt from funeral directors exam-****H. 776, page 1429****Pre-need funeral services, trust funds established to provide-****H. 708, page 1096****DEATH PENALTY****Cases, appeal directly to supreme court, bypassing court of criminal appeals-****H. 938, page 2763****DEBT COLLECTORS****Fair practices act, created-****H. 900, page 2071****S. 552, pages 3024, 3065****DECEPTIVE TRADE PRACTICES ACT****Promotional giveaways, campground membership, career consulting firms, loanbrokers, health spas, and odometers, regulating, further provided-****H. 580, pages 571, 839****DEEDS****Probate office, filed in, for recordation, address of grantee required-****S. 271, pages 2388, 2552, 2808, 3083****DEMOPOLIS****Corporate limits, altered-****H. 857, pages 1921, 2065, 2226, 2227, 2802, 2951, 3056, Act No. 94-558****S. 636, pages 2259, 2553, 2775, 2776, 2838, Act No. 94-534**

DENTAL CARE

Medical accounts, individual, may be established to defray costs of-
H. 365, pages 158, 491

DEPUTIES

Civil immunity, same as police officers, provided-
H. 690, page 919

Full-time law enforcement officers of county, compensation, set-
H. 634, page 791

DEVELOPMENTALLY DISABLED, NORTH CENTRAL ALABAMA

Sales and use tax exemption, provided-
H. 87, page 42

DIABETES TRUST FUND

Appropriation, conditional, provided-
H. 732, pages 1191, 1901

DISABLED

Interpreters and transliterators board, established-
H. 625, page 721

Motor vehicles, handicapped parking, further provided-
H. 745, page 1195

Motor vehicles, handicapped parking, state laws, conforming to federal laws,
further provided-
H. 561, page 536

Persons, assistance dogs, provided-
H. 26, pages 27, 104, 518, 519, 1201

Rehabilitation services department and board of rehabilitation services,
established, rehabilitation programs and services, transfer duties from
state board of education and department of education-
H. 627, pages 722, 1416, 2412, 2413, 2414, 2509, 2510

Rehabilitation services department, established, transfers functions subject
to supervision by state board of education-
H. 628, page 722

Tax notices, availability of homestead exemptions for, required to include-
H. 364, pages 158, 2172

DISASTER RELIEF AGENCIES AND VOLUNTEERS

Commended-

H.J.R. 411, pages 2957, 3088, 3100, 3610, Act No. 94-500

DISCRIMINATION

Employment, based on age, prohibited-

H. 564, pages 537, 1418, 1723, 1739

Human relations act, employment, housing and public accommodations, in, prohibited, human relations commission, established, civil penalties, authorized to levy-

H. 823, page 1627

DISTRICT ATTORNEYS

Felons and sex offenders, registration of, paroles, criminal justice information center, pardons and paroles board to notify-

H. 408, page 167

Motor fuel marketing act, portion of penalties collected shall go to the office of, which brought the action-

H. 654, pages 861, 1695, 2728, 2729, 3622, 3632, 3708, Act No. 94-699

DIVORCE

Child custody awards, regulated, joint custody, authorized, custodial parent, child, certain age, may designate, territorial restrictions, venue, tax treatment, visitation, support, provided-

H. 311, pages 121, 2170

Children, minor, joint custody of, further provided-

H. 665, page 863

Human resources department, investigative services for, fees, provided-

H. 478, pages 426, 839, 1728, 1998

S. 388, pages 1776, 2165, 2725, 2726, 2757, Act No. 94-575

Settlement awards, allowance for retirement pension benefits, further provided-

H. 569, pages 569, 2168

DOCKS AND HARBORS

Employees, safety program for, authorized to establish-

H. 301, pages 118, 366, 1726, 1996, 2036

DOGS

Assistance, disabled persons, provided-
H. 26, pages 27, 104, 518, 519, 1201

Deer hunting, unauthorized release onto land of another, prohibited-
H. 237, pages 74, 368, 650, 733, 750, 753, 757, 758

Police, crime of assaulting, misdemeanor, provided-
H. 689, pages 919, 2168
H. 909, page 2175
S. 7, pages 689, 1088

DOMESTIC RELATIONS

Abuse, protective orders, court hearings, penalties, further provided-
H. 449, page 385

DOMESTIC VIOLENCE

Abuse, protective orders, court hearings, penalties, further provided-
H. 449, page 385

Coalition against domestic violence, Inc., membership standards regulated,
funding, provided-
H. 261, pages 79, 489

DONT

Appropriation, provided-
H. 213, pages 69, 1082, 1201, 1560, 1562, 1563, 2001, 2002, 3626,
3635, 3708, Act No. 94-678

DORTCH, DORIS A.

Commended-
H.J.R. 93, pages 507, 508, 531, 554, 568, 618, Act No. 94-77

DOTZLER, ASA G.

Commended-
H.J.R. 209, pages 1314, 1685, 2101, 2113, 2158, Act No. 94-299

DOTZLER, THOMAS P.

Commended-
H.J.R. 208, pages 1313, 1314, 1685, 2101, 2113, 2157, Act No. 94-298

DRAKE, TOM

Commended-

H.J.R. 212, pages 1411, 1412, 1683, 1747, 1891, Act No. 94-214

DRIVER, VIRGINIA GERTRUDE VAUGHN

Commended-

H.R. 427, page 3053

DRIVING UNDER INFLUENCE

Blood alcohol level, reduced, driver's license, suspended-

H. 346, page 130

Conviction, fourth or subsequent, penalties, increased-

H. 348, page 130

S. 85, pages 1782, 2170, 2730, 2731, 2732, 2754, Act No. 94-590

Conviction, fourth in five years, class c felony, condition of sentence, license revocation of, provided-

H. 411, pages 168, 485

Marine police, arrest powers, further provided-

H. 457, pages 387, 490

DRUGS

Boats and motor vehicles, driving or operating under the influence, causing death of another, commits crime of murder-

H. 20, pages 26, 105, 546, 547, 549, 815, 816, 817, 819

Cannabis, possession of any mixture of, felony, provided-

H. 818, pages 1625, 2170

Driver's license, suspended or application denied of a student suspended for possession of-

H. 83, pages 41, 561

Drug involved serious habitual offender program established in the office of prosecution services, appropriation, provided-

H. 927, page 2374

Hunting under the influence of, prohibited, when injury or death occurs, penalties, enhanced-

H. 530, pages 501, 1696

Insurance coverage for off-labelling drugs for therapeutics effects under certain conditions-

S. 582, pages 3019, 3065

DRUGS (Continued)

Marine police, arrest powers in dui cases, further provided-
H. 457, pages 387, 490

Nurse practitioners, dispense in collaboration with physicians, authorized to-
H. 796, pages 1463, 1697
S. 570, pages 2261, 2371, 2811, 3082

Open house parties conducted by minors where consumed, adults criminally
liable in certain instances-
H. 105, pages 46, 104, 469, 470, 515, 516, 517, 2768, 2946, 3055, Act
No. 94-580

Possession of marihuana in first degree, if person is in possession of
marihuana after having been previously convicted of an offense
involving a controlled substance-
H. 832, pages 1629, 2170

Prescription, certain, physician assistants, may prescribe-
H. 795, pages 1463, 1697, 2087, 2091, 2092, 2093
S. 571, pages 1769, 1770, 1905, 2092, 2093, 2141, Act No. 94-261

Sellers who resell to purchasers, causes of action, established-
H. 470, pages 424, 488

State committee on drug abuse and alcoholism, and division of mental
health for drug abuse and alcoholism, created-
H. 519, page 499

Unemployment compensation, disqualification for benefits for testing
positive for usage-
H. 814, pages 1470, 1696, 2704, 2705, 2715, 2716, 2750, 3627, 3642,
3708, Act No. 94-719

DRYDEN, CARL THOMAS

Death mourned-
S.J.R. 78, pages 1792, 1793, 1895, 2020, Act No. 94-235

DUFF, JANICE

Commended-
H.R. 444, page 3089

DUPREE, DONALD C.

Death mourned-
H.J.R. 350, pages 2378, 2379, 2567, 2598, 2751, Act No. 94-430

DURABLE POWER OF ATTORNEY

Power to give gifts based on principal's prior gift-giving-
H. 921, pages 2372, 2552
S. 658, pages 3018, 3064

EAGLES, TOMMY JOE

Commended-
S.J.R. 117, pages 2352, 2353, 2362, 2495, Act No. 94-379

EARLY INTERVENTION ACT FOR INFANTS AND TODDLERS

Insurance contracts, including hmos, family coverage for newborns,
Included-
H. 330, page 126

EAST ALABAMA CHILD DEVELOPMENT CENTER

Appropriation, provided-
H. 214, pages 69, 1082, 1201, 1563, 1564, 1565, 2327, 2339, 2356,
Act No. 94-333

EAST LAWRENCE HIGH SCHOOL

Varsity cheerleaders, commended-
S.J.R. 49, pages 930, 931, 1078, 1132, Act No. 94-126

EASTERN AREA CHRISTIAN MINISTRIES

Taxation, sales and use, exemption, provided-
H. 608, page 629

ECONOMIC AND COMMUNITY AFFAIRS DEPARTMENT

Appropriation, provided-
H. 812, pages 1470, 1901, 2098, 2099, 2965, 2966, 3045, 3568, 3569,
3638, 3646, 3708, Act No. 94-684

Appropriation, supplemental, provided-
H. 591, page 625

Business enterprise and research program, established, small business,
appropriation, to administer-
H. 590, pages 625, 785

Energy policy act of Alabama of 1994, established-
H. 310, page 121
S. 243, page 2262

Enterprise zone act, applicable to businesses employing three or more,
notwithstanding rules of-
H. 431, pages 381, 1415, 1725, 1765, 1766

EDUCATION

Ad valorem tax, minimum 20 mills levied in each county, distribution, utilities property and residential rental property, rates lowered, ca-
H. 375, pages 160, 1729

Ad valorem tax, minimum levied in all state school districts, procedure to further increase, provided, ca-
H. 119, pages 49, 1295

Alabama first, a plan for academic excellence act of 1994, established-
S. 75, pages 527, 528, 705

Alabama independent school association, official in-state accreditation agency for non-public school, designated-
H. 570, pages 569, 658, 708
S. 450, page 1780

Alabama students first improvement act of 1994 (Hooper), established-
H. 652, page 796

Budget, provided-
H. 193, pages 66, 1079, 1199, 1209, 1279, 1280, 1281, 1282, 1283, 1285, 1287, 1288, 1289, 1290, 1292, 1293, 1294, 1296, 1297, 1298, 1299, 1300, 1301, 1310, 1311, 1312, 1320, 1321, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1804, 1805, 1874, 1929, 2414, 2491, 2492, 2511, 2512, 2544, 2604, 2661, 2663, 2765, 2800, 3055, Act No. 94-470

Classroom technology education trust fund, established-
H. 97, pages 44, 1665, 1997
H. 743, pages 1194, 1417
S. 125, pages 1779, 2165, 2808, 2985, 2986, 2988, 3081, 3094, 3095, 3098, 3615, 3624, Act No. 94-673

Closure and realignment act, established,-
H. 51, page 33

Compact for leadership and citizenship education, established, appropriation, provided-
H. 650, page 795
S. 516, pages 1448, 1449, 1663, 2809, 2993, 2994, 3040, Act No. 94-482

Construction industry education act, construction industry craft training in vocational, technical and trade schools, established-
H. 357, pages 156, 358, 563

EDUCATION (Continued)

Employees, retired, health insurance, contributions, increased-
H. 289, pages 116, 1085

Employees, sick leave and transfer of sick leave, provided for-
H. 543, page 504
S. 637, pages 3032, 3064

Equitable system, established, special educational trust fund, abolished,
public school fund, higher education fund, established, taxes, certain,
distribution, provided-
H. 808, pages 1466, 2166

Forestry commission, education and job training program, pilot program at
Jefferson state junior college, provided-
H. 417, pages 169, 1899

Funding, public schools, uniform, ca-
H. 809, pages 1468, 1694

General public education purposes, funds appropriated by act 93-789,
repealed and reappropriated-
H. 153, pages 58, 146

High school of mathematics and science, bonds, authorized to issue-
H. 864, pages 1922, 2550

Medical scholarships, amount, maximum, increased, procedure, altered-
H. 228, pages 72, 362, 649, 695
S. 67, pages 556, 560, 695, 696, 713, Act No. 94-103

Newspaper in education week, designated-
H.J.R. 111, pages 614, 615, 622, 702, 752, 779, Act No. 94-101

Phonics, to be taught more in schools, right to read act, established-
H. 567, page 538

Public, employees, cost-of-living increase, provided-
H. 283, pages 115, 1085, 1203, 1635, 1638, 1639, 1640, 2544, 2596,
2751, Act No. 94-474

Public, entities, certain, appropriation, provided-
H. 154, pages 58, 146
H. 669, page 864

Revised Alabama education improvement act of 1994, established-
H. 550, page 533

EDUCATION DEPARTMENT

Appropriation, provided-

H. 195, pages 66, 1080, 1199, 1526, 1527, 1529, 2681, 2684, 2769, 2982, 2985, 3036, 3060, 3609, Act No. 94-603

Education accountability, provide findings, directed to-

H.J.R. 68, pages 378, 379

Rehabilitation services department and board of rehabilitation services, established, duties transferred from-

H. 627, pages 722, 1416, 2412, 2413, 2414, 2509, 2510

Rehabilitation services department, established, transfers functions subject to supervision by-

H. 628, page 722

EDUCATION IMPROVEMENT ACT OF 1991

Established-

H. 550, page 533

EDUCATIONAL RESOURCES, INC.

Appropriation, provided-

H. 215, pages 69, 1083, 1201, 1566, 2327, 2340, 2356, Act No. 94-334

EDUCATIONAL TELEVISION COMMISSION

Broadcasting and production equipment, surplus, disposal of, authorized-

H. 76, page 39

Members, per diem, same as other state employees, daily meeting allowance, increased-

H. 77, pages 39, 362, 1728, 1998

ELDERLY

Alzheimer's victims, missing, law enforcement agencies, urged to assist in locating-

H.J.R. 124, pages 635, 704, 1121, 1140, 1182, Act No. 94-155

Commission on aging, lead agency for examination and revision of state's long-term care system, designated-

H.J.R. 355, pages 2531, 2532, 2545, 3641, 3649, 3708, Act No. 94-636

Crimes against, penalty enhanced-

H. 103, pages 45, 1903

Jurors, aged 70 and older, may elect not to serve, provided-

H. 600, pages 628, 1089

ELEBASH, ROSEMARY

Call before you dig act of 1994, named-

S.J.R. 105, pages 2249, 2757, 3094, Act No. 94-489

ELECTION OFFICERS

Compensation, further provided-

H. 928, pages 2374, 2552, 2806, 2807, 2811

Compensation, state, half to be paid by-

H. 471, page 424

Staff, necessary to process and canvass absentee ballots, appointment, authorized-

H. 817, pages 1625, 2371, 2810, 3017, 3034, 3041, 3625, 3635, 3708, Act No. 94-692

S. 554, pages 3026, 3063

Voter registration lists, chairpersons of county executive committees of political parties after the elections, provided to-

H. 367, pages 158, 546, 711, 1065, 1066, 1180, 1181

ELECTIONS

Absentee voting, administration, further provided-

H. 121, pages 49, 368, 648, 678

S. 8, pages 689, 786, 1149, 1158, 1159, 1160, 1429, 1430, 2274, 2283, 2323, Act No. 94-320

Boards of registrars, compensation, increased-

H. 491, pages 429, 1086, 2250, 2251, 2253, 2254, 2255, 3639, 3648, 3708, Act No. 94-693

Impersonating someone else in order to vote, voting more than once, prohibited-

H. 414, page 169

H. 664, pages 863, 1420, 2811

Initiative and referendum process, established, procedures, legislative process, ca-

H. 50, page 33

H. 339, pages 128, 786

H. 524, pages 500, 711

Officers, compensation, state, half to be paid by-

H. 471, page 424

ELECTIONS (Continued)

Officials, compensation, further provided-

H. 928, pages 2374, 2552, 2806, 2807, 2811

Officials, staff, necessary to process and canvass absentee ballots, appointment, authorized-

H. 817, pages 1625, 2371, 2810, 3017, 3034, 3041, 3625, 3635, 3708, Act No. 94-692

S. 554, pages 3026, 3063

Voter registration lists, provided to chairpersons of county executive committees of political parties after the elections-

H. 367, pages 158, 546, 711, 1065, 1066, 1180, 1181

Voter registration, implementation of "motor-voter" federal act-

H. 242, page 75

S. 101, pages 688, 1091, 3082

ELECTRICAL CONTRACTORS

Inspection board, established-

H. 548, pages 505, 1419

ELLEN, WILLIAM EUGENE

Death mourned-

S.J.R. 76, pages 1792, 1895, 2020, Act No. 94-234

ELLIS, FRANK CORLEY, SR.

Death mourned-

S.J.R. 65, pages 1453, 1454, 1688, 1914, Act No. 94-227

ELMORE COUNTY

Fee on residences and businesses for fire protection and emergency medical care, legislature may adopt local law permitting county commission to-

H. 749, pages 1196, 1910, 2184, 2185, 3090, 3103, 3610, Act No. 94-483

Roads, unpaved, speed limits, county commission, authorized to alter-

H. 908, pages 2175, 2555, 2796, 2797, 3618, 3630, 3708

ELMS, PATRICK

Commended-

H.J.R. 147, pages 798, 835, 1119, 1141, 1183, Act No. 94-163

ELYTON RECOVERY CENTER

Appropriation, provided-

H. 317, pages 122, 149, 1203, 1631, 1633, 2335, 2354, 2540, Act No. 94-360

EMERGENCY MEDICAL TECHNICIANS

Governmental employees, training cost of, hired by another entity, reimbursement, provided-

H. 94, pages 43, 108, 1727, 1997

EMERGENCY TELEPHONE SERVICE

Districts, funds, may use to purchase, install and maintain street and road sign to facilitate operation of service number regions-

H. 774, pages 1429, 1908

EMINENT DOMAIN

Real property, cause of action, established for owners of property which has been reduced in value because of a rule or regulation-

H. 413, pages 168, 369, 2811

EMMETT, SUE

Commended-

H.J.R. 56, pages 348, 349, 361, 406, 432, Act No. 94-40

EMPLOYEES' RETIREMENT SYSTEM

Ad valorem tax officials, county, supernumerary, transfer to, authorized, ca-

H. 100; pages 45, 100, 316, 407, 457, 463, 464, 467, 471, 3670, 3671, 3704, 3710, Act No. 94-612

Board of control and management, composition of, altered-

H. 397, page 165

S. 590, pages 2391, 2550, 2810, 3082, 3587, 3594, 3616, 3623, Act No. 94-616

Court reporters, certain, may use credit in, for supernumerary credit-

H. 884, page 2068

Economic opportunity office, employees, former, reopened to purchase prior service credit-

H. 854, pages 1708, 1903

H. 634, page 791

Employees, certain, purchase of credit for service rendered while excluded from, reopened for-

H. 851, pages 1707, 2549, 2798, 2799, 3667, 3702, 3709, Act No. 94-721

EMPLOYEES' RETIREMENT SYSTEM (Continued)

Federal reserve system, reopened to allow purchase of prior service credit for service with-

H. 717, pages 1099, 1900

Investments, regulated-

H. 257, pages 78, 106, 821, 822, 823, 827

Members, state retired, certain, service credit for time served with a nonparticipating local agency, authorized to purchase-

H. 385, pages 162, 484

Military service, certain, purchase of, reopened for-

H. 438, page 383

Retirees and beneficiaries, cost-of-living increase, provided-

H. 59, pages 35, 1415, 1723, 1739, 1740

S. 76, pages 1309, 1413, 1739, 1740, 1915, Act No. 94-232

State arts council, prior service with, reopened for-

H. 474, pages 425, 1899, 2734, 2735, 3676, 3704, 3709, Act No. 94-722

Supernumerary positions, establishment, prohibited, participation in, ca-

H. 58, pages 35, 100, 199, 316, 407, 455, 456, 3625, 3628, 3707, Act No. 94-607

EMPLOYERS

Job performance of, information on, liability, regarding, exemptions, provided-

H. 425, pages 172, 491, 2293, 2301, 2302, 2303

Staff leasing services, regulated and licensed through industrial relations department-

H. 869, page 1924

Unemployment compensation benefits, locked-out employees, entitled to receive-

H. 582, page 571

ENERGY POLICY ACT OF ALABAMA OF 1994

Established-

H. 310, page 121

S. 243, page 2262

ENGINEERS

Age 65, over, licensure fee and continuing educational requirements, exemption, provided-
H. 597, pages 627, 2550

Professional liability for construction, limitation regarding, altered-
H. 341, pages 128, 488, 874, 875, 876, 883, 884, 890, 922, 1131, 1138, 1182, Act No. 94-138

ENTERPRISE STATE JUNIOR COLLEGE

Appropriation, supplemental, provided-
H. 277, page 113

ENTERPRISE ZONES

Act, applicable to businesses employing three or more, notwithstanding rules of economic and community affairs department-
H. 431, pages 381, 1415, 1725, 1765, 1766

Self-help business improvement districts, municipalities, authorized to establish, assessments, imposed-
H. 631, pages 790, 913, 1727, 1997
S. 465, pages 1449, 1450, 1699

ENVIRONMENT

Air pollution control act, violations, fines prescribed-
H. 481, pages 427, 1092, 2517, 2518

Artificial reefs, suitable materials from Tensaw river bridge replacement project to be used for, transportation department and conservation and natural resources department directed to utilize-
S.J.R. 112, pages 2351, 2352, 2361, 2494, Act No. 94-374

Environmental laboratory certification act, established-
S. 281, pages 1779, 1780, 2062

Fisherman's right to know act, posting of discharge of pollutants, environmental management department to administer-
H. 442, page 384

Hazardous chemical reporting, planning and response act of 1994, to implement public law 99-499, provided-
H. 762, pages 1426, 1458

Hazardous materials, transportation through tunnels, prohibited, penalties, provided-
H. 623, pages 721, 1092, 1515, 1516

ENVIRONMENT (Continued)

Lead reduction act of 1994, created-

H. 404, pages 166, 489

S. 379, pages 687, 785

Marine sanitation, residence boats and vessels regulated, environmental management department to administer-

H. 862, pages 1922, 2171

Metal recyclers of nonferrous metals, records, required to keep, inspection by law enforcement officers, purchases and sales regulated, civil remedies to proper owner, criminal penalties, provided-

H. 302, pages 118, 563

S. 82, pages 574, 575, 2371

Property, prescribed burning, forestry commission, regulated by, limitation of liability-

H. 753, pages 1196, 1698, 1999

Scrap tire act of 1994, established-

H. 323, pages 124, 563

Solid waste collection, counties and municipalities, required to provide services by January 1, 1995-

H. 707, pages 1096, 1907

Tires, recycling program, fees, revenue department to collect, health department to administer-

H. 501, pages 431, 1416

ENVIRONMENTAL LABORATORY CERTIFICATION ACT

Established-

S. 281, pages 1779, 1780, 2062

ENVIRONMENTAL MANAGEMENT DEPARTMENT

Fisherman's right to know act, posting of discharge of pollutants, to administer-

H. 442, page 384

Marine sanitation, residence boats and vessels regulated, to administer-

H. 862, pages 1922, 2171

Wastewater treatment facilities, jurisdiction to public service commission, regulated, fees, agreements with-

H. 666, pages 863, 1420

EPILEPSY FOUNDATION OF ALABAMA

Appropriation, provided-

H. 180, pages 63, 101, 323, 324, 2666, 2667, 2772, 3055, Act No.
94-519

ESCAMBIA COUNTY

Cigarette tax, distribution, further provided-

H. 73, pages 38, 150, 398, 510, 538, 933, 2370, 2497, 2541, Act No.
94-394

Jail store, contract housing, sheriff, authorized to establish-

H. 42, pages 31, 150, 395, 438, 510, 538, 932

ESHAM, RICHARD H.

Commended-

H.J.R. 191, pages 1070, 1071, 1078, 1207, 1209, 1318, Act No. 94-189

ESTIS, LEE

Commended-

H.R. 162, page 803

ETHICS-

Substantially altered-

H. 824, page 1627

ETHICS COMMISSION

Appropriation, supplemental, provided-

H. 445, page 384

S. 430, pages 1636, 3063

ETOWAH COUNTY

Bingo games, operation of, further provided-

H. 66, pages 37, 532, 583, 1123, 1137, 1182, Act No. 94-135

H. 645, pages 794, 840, 936, 937

Chief executive officer, powers and duties, further provided-

H. 67, page 37

H. 646, pages 794, 1093, 1523, 1524

Sales tax, proceeds, distribution, altered-

H. 644, pages 794, 1910, 2393, 2394

Superintendent of education, election of, referendum, provided-

H. 887, page 2069

EVERETT, IRIS CREEL CAMPBELL

Death mourned-

H.J.R. 123, pages 634, 635, 703, 1121, 1140, 1182, Act No. 94-154

EVERITT, HENRY O.

Commended-

S.J.R. 44, pages 805, 837, 898, Act No. 94-111

EXAMINERS OF PUBLIC ACCOUNTS

Appropriation, supplemental, provided-

H. 151, pages 57, 146

Chief examiner, power, expanded-

H. 245, pages 76, 363

Deliberative process privilege, sworn reports subject to-

H. 246, pages 76, 363

Legislature, members, funds, all, receipt of, itemized receipt of filed with,
penalties-

H. 52, page 33

Repository for reports of entities receiving state funds, established-

H.J.R. 236, pages 1670, 2161, 2565, 2597, 2751, Act No. 94-414

EXPLOREUM MUSEUM OF DISCOVERY

Appropriation, provided-

H. 216, pages 70, 1083, 1201, 1571, 2327, 2340, 2356, Act No. 94-335

EXPLOSIVES

Utilities, excavation and demolition, one-call notification system regarding,
civil penalties, enforcement-

H. 361, pages 157, 491, 602, 603, 604

S. 299, pages 1304, 1421, 2718, 2719, 2720, 2755, Act No. 94-487

EXXON

Commended-

H.R. 277, page 1927

H.J.R. 278, pages 1927, 1928, 2057, 2565, 2597, 2751, Act No. 94-415

S.J.R. 100, pages 2155, 2162, 2294, Act No. 94-258

FAIR TRIAL TAX FUND

Indigent defense services, contract counsel system, county use provided-
H. 485, pages 427, 1418, 1728, 1998, 2492, 2493
S. 86, pages 582, 1419

FAIRFIELD

Board of education, appropriation, supplemental, provided-
H. 639, pages 791, 2549

FAIRFIELD CITY SCHOOLS

Project dare program; Belcher, Frank, commended-
H.R. 336, page 2267

FAME STUDIOS

Alabama's first recording studio, named-
S.J.R. 14, pages 393, 394, 421, 461, Act No. 94-49

FAMILY AND CHILD SERVICES

Board of examiners in marriage and family therapy, established-
H. 410, pages 168, 560, 1724, 1751

FARMER, KENNETH

Commended-
H.J.R. 168, pages 831, 832, 838, 1130, 1139, 1183, Act No. 94-143

FARMERS' MARKET AUTHORITY

Transfer of funds between programs, under, provided-
H. 192, pages 66, 102, 334, 336, 2767, 2946, 3056, Act No. 94-544

FAULKNER, GENE

Commended-
H.R. 398, page 2721

FAYETTE COUNTY

State coal severance tax, appropriation to county general fund-
H. 526, pages 501, 1900

FEDERAL DEFICIT

U.S. congress, balanced budget, urged to adopt-
H.J.R. 194, pages 1073, 1074

FEDERAL GOVERNMENT

Cash management improvement act of 1990, appropriation, interest payment-

H. 706, pages 1095, 1417

S. 209, pages 3021, 3062

Law enforcement officers, state laws, authorized to enforce-

H. 388, page 162

FELONS

Registration of, uniform system by criminal justice information center, pardons and paroles board to notify sheriff and district attorney of paroles-

H. 408, page 167

FELONY

Elderly, handicapped or infirm, crimes against, penalty enhanced-

H. 103, pages 45, 1903

Stalking, second conviction, penalties, additional, provided-

H. 15, page 25

Workers' compensation, filing of false statements, class b, provided-

H. 466, page 389

Workers' compensation, filing of false statements, class c, established-

H. 494, pages 430, 710

H. 780, pages 1460, 1699, 2338, 2341, 2342, 2343, 3650, 3651, 3652, 3665, 3709, Act No. 94-653

FIDUCIARIES

Corporations, foreign, capacities for, expanded-

H. 256, pages 78, 106, 820, 821

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FINANCE DEPARTMENT

Air transportation division, equipment, certain, transferred to transportation department-

H. 748, pages 1195, 1908, 2411, 2412, 3640, 3648, 3708, Act No. 94-689

Telecommunications division, sunset law review, continued-

S. 118, pages 685, 709, 1116, 1117, 1144, Act No. 94-128

FINANCE DIRECTOR

Federal government, interest due as computed in accordance with cash management improvement act of 1990, appropriation for, to administer-
H. 706, pages 1095, 1417

State employee injury compensation program, may establish-
H. 305, pages 119, 369, 1727, 1997, 2525, 2526, 2527, 3626, 3643, 3708, Act No. 94-680

FINLEY, SARA CREWS

Commended-
S.J.R. 146, pages 3697, 3698, 3702, Act No. 94-646

FIRE PROTECTION

Districts, abolishing, certain, procedures, set-
H. 642, pages 792, 1908

Districts, annexation into municipalities, lost revenues, municipalities required to reimburse-
H. 31, pages 28, 492, 650, 732, 742, 743

FIRE PROTECTION AUTHORITIES

Managers, members who serve as, compensation, provided-
H. 274, pages 113, 1700

FIRE PROTECTION DISTRICTS

Certain, abolishing, procedures, set-
H. 642, pages 792, 1908

Municipalities, annexation into, lost revenues, municipalities required to reimburse-
H. 31, pages 28, 492, 650, 732, 742, 743

Public service corporation districts, services, expanded-
H. 626, pages 722, 1091, 1661, 1662, 3656, 3666, 3709, Act No. 94-707

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Assault weapons, prohibited, penalties, provided-
H. 560, page 536

Campus, on, confiscated and destroyed-
H. 696, page 920

FIREARMS (Continued)

Firing into a crowd and killing a person, capital offense, provided-
H. 936, page 2763

Governmental operations, obstruction of, by person with, class c felony,
provided-
H. 903, page 2174

Primitive hunting season, established, antique, ammunition, "black powder",
use of, authorized, license, required, penalties, provided-
H. 842, page 1706

School property, activities and transportation, banned from, penalties-
H. 786, pages 1461, 1700, 2000
S. 202, pages 690, 1696, 3082

Short-barrelled rifle or shotgun or alteration or possession of altered firearm
used in commission of a crime, destruction of, after conviction,
provided-
H. 573, pages 569, 707, 2540

FIREFIGHTERS

Annuity fund, established-
H. 565, pages 537, 1087, 1726, 1996, 2022, 2023, 2030, 2031

Governmental employees, training cost of, hired by another entity,
reimbursement, provided-
H. 94, pages 43, 108, 1727, 1997

Municipalities, certain, outside merit system, authorized to hire-
H. 322, pages 123, 124

Occupational disease, who die from, death benefits administered by board
of adjustment, provided-
H. 359, pages 156, 484, 609, 610, 1678, 1679, 1890, Act No. 94-250

FIREFIGHTERS ANNUITY FUND

Established-
H. 565, pages 537, 1087, 1726, 1996, 2022, 2023, 2030, 2031

FIREWORKS

Bottle rockets, prohibited-
H. 64, pages 36, 1088

FISCAL YEAR

State, changed-
H. 284, page 115

FISHERMAN'S RIGHT TO KNOW ACT

Established-

H. 442, page 384

FLAKES, CURTIS M.

Commended-

H.J.R. 40, pages 137, 138, 145, 348, 374, 417, Act No. 94-33

FORECLOSURES

Advertised notices of real property, required to include street address or nearest location-

S. 263, pages 693, 1089, 2808, 3083

FOREIGN NATIONALS

Alabama, imprisoned in, may be transferred to country of citizenship if transfer is pursuant to U.S. treaty-

H. 128, pages 51, 104, 468, 469

Extradition to native country, governor, authorized-

S. 246, pages 579, 1089, 3082

FORESTDALE LIONS CLUB

Sales and use tax exempt, ad valorem tax exemption, provided-

H. 355, page 155

FORESTERS

Board of registration for, revocation of non-renewed licenses, administrative fine provisions clarified, sunset law review, continued-

H. 198, pages 67, 1080, 1200, 1533, 1534, 2300, 2304, 2356, Act No. 94-317

FORESTRY COMMISSION

Appropriation, supplemental, provided-

H. 190, pages 65, 102, 332, 1394, 1397, 1456, Act No. 94-194

Education and job training program, pilot program at Jefferson state junior college, provided-

H. 417, pages 169, 1899

Employees, commended-

S.J.R. 63, pages 1456, 1688, 1914

S.J.R. 86, pages 1798, 1799, 1897, 2020, Act No. 94-241

Property, prescribed burning, regulated by, limitation of liability-

H. 753, pages 1196, 1698, 1999

FORESTS

Stewardship tag program, established-
H. 828, pages 1628, 1903

FORT PAYNE

Sock capital of the world, designated-
H.J.R. 435, pages 3073, 3616, 3633, 3708, Act No. 94-625

FOSHEE, E. C. (CRUM)

Commended-
S.J.R. 129, pages 2695, 2697, 2756, Act No. 94-506

Highway, named-
H.J.R. 135, pages 717, 782, 1100, 1115, 1182, Act No. 94-123

FOX, HARRY

Commended-
H.R. 322, page 2180
H.J.R. 323, pages 2180, 2181, 2576, 2601, 2751, Act No. 94-452

FRANCE, WILLIAM H. G.

Recognized-
S.J.R. 147, pages 3697, 3698, 3702, Act No. 94-647

FRANCHISES

Business, regulation of, civil and criminal penalties, provided-
H. 465, pages 389, 488, 1729, 1999

FRANKLIN COUNTY

Regional airport authorities with Mississippi, incorporation, authorized, ca-
H. 63, pages 36, 154, 370, 438, 439, 1800, 1912, 2054, Act No. 94-204
H. 655, pages 861, 945, 1703, 1973, 1993, 1994

Superintendent of education, election-
H. 62, pages 36, 150, 397

Superintendent of education, election, legislature may provide, ca-
H. 60, pages 35, 150, 396
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FRATERNAL ORDER OF POLICE

License plates, distinctive, authorized to issue-
H. 532, pages 502, 1086, 1726, 1996, 2053, 2285, 2286, 2288
S. 375, pages 1780, 1781, 2548, 3082, 3594, 3595, 3613, Act No.
94-614

FRAZIER, STEPHANIE MARIE

Bridge, named-

H.J.R. 328, pages 2184, 2576, 2601, 2751, Act No. 94-455

FRIENDS OF MAGNOLIA CEMETERY, INC.

Taxes, sales and use, county and municipal, exemption, provided-

H. 744, pages 1194, 1195, 1424, 1513, 1514, 1931, 1987, 2054, Act No. 94-246

FRIENDS OF THE REGIONAL HOSPITALS, INC.

Taxes, sales and use, exemption, provided-

H. 86, page 42

FULL EMPLOYMENT PROGRAM

Established-

H. 919, page 2178

FUNERAL SERVICES

Board of, persons with certain number of years service, funeral directors exam, exempt from-

H. 776, page 1429

Pre-need, trust funds established to provide-

H. 708, page 1096

FUTURES GOLF TOUR

Alabama, welcomed to-

H.J.R. 223, pages 1589, 1590, 1691, 2090, 2111, 2157, Act No. 94-285

G. F. SHIELDS HIGH SCHOOL

Boys' basketball team, commended-

S.J.R. 122, pages 2539, 2540, 2546, 2595, Act No. 94-408

GADSDEN

Quest for excellence education program, appropriation, provided-

H. 155, pages 58, 147

GADSDEN STATE COMMUNITY COLLEGE

Appropriation, provided-

H. 44, pages 31, 838, 948, 949, 950, 951, 2662, 2752, Act No. 94-479

Appropriation, supplemental, provided-

H. 630, page 790

GAINES, FREDDIE LEE

Restitution, appropriation, provided-

H. 19, pages 26, 1414

GAINESVILLE

Corporate limits, altered-

H. 931, pages 2375, 2553, 2784, 2785, 2822, 3621, 3629, 3708, Act No. 94-675

GAMBLING

Lottery, state operated, established, private lotteries prohibited, lottery commission, established, ca-

H. 141, page 55

Lottery, state operated, lottery commission, lottery trust fund, established-

H. 125, page 51

GAME AND FISH

Deer hunting dogs, unauthorized release onto land of another, prohibited-

H. 237, pages 74, 368, 650, 733, 750, 753, 757, 758

Fishing licenses, resident lifetime fishing license holders may fish saltwaters-

H. 120, page 49

Fishing licenses, saltwater and combination freshwater license, reduced-

H. 118, page 49

Hunting, trapping, or participating in other legal wildlife recreation, interfering with, prohibited, class b misdemeanor, provided-

H. 844, pages 1706, 1907, 2283, 2284, 2285

S. 9, pages 691, 692, 710, 2284, 2323, Act No. 94-321

Hunting and fishing licenses, dates of validity, resident fishing license one year from date of issuance-

H. 540, pages 503, 710, 1724, 1756, 1757, 3656, 3666, 3709, Act No. 94-655

GAME AND FISH (Continued)

Hunting from tree stand, legal game except wild turkey, with guns, authorized-

H. 504, pages 496, 562, 1729, 1999

Hunting licenses, nonresident fees, deer season, further provided-

H. 281, pages 114, 562, 648, 678, 1727, 1995, 2012, 2013, 2762, 2945, 3055, Act No. 94-577

Hunting under the influence of alcohol or controlled substances, prohibited, when injury or death occurs, penalties, enhanced-

H. 530, pages 501, 1696

Marine resources endowment fund, established, lifetime resident fishing license, provided for-

H. 790, page 1462

Primitive hunting season, established antique firearms, ammunition, "black powder", use of, authorized, license, required, penalties, provided-

H. 842, page 1706

Shrimping industry, regulations regarding poundage, location of catches, licensing-

S. 329, pages 1773, 1907, 2809, 3081, 3581, 3585, 3586, 3615, 3624, Act No. 94-618

U.S. congress, disapprove of placement of Alabama sturgeon on endangered species list and critical habitats in waterways, memorialized to-

H.J.R. 142, pages 778, 779, 784, 1119, 1141, 1182, Act No. 94-159

GARDENDALE ELEMENTARY SCHOOL

Student teams, commended-

H.J.R. 330, pages 2263, 2264, 2358, 2359, 2576, 2601, 2751, Act No. 94-457

H.R. 331, page 2264

GARRETT, JOHN A.

Commended-

H.J.R. 358, pages 2534, 2535, 2545, 2546, 2801, 2952, 3056, Act No. 94-510

H.R. 368, page 2536

GARZON, GEORGE A.

Commended-

S.J.R. 31, pages 723, 782, 828, Act No. 94-105

GAS DISTRICTS

Municipalities, organized by, board of directors, fees for members and chair, provided-
H. 873, pages 1925, 2172

GASOLINE TAX

County or municipality, if imposed by, not included in computing the gross receipts owned to local governments-
H. 90, pages 42, 1087, 2811
S. 536, pages 2390, 2391, 2548

GEISS, LINDA BROOKS

Commended-
H.J.R. 190, pages 1069, 1070, 1078, 1206, 1208, 1317, Act No. 94-188

GENERAL CONTRACTORS

Materialmen, limitation of liability for construction on real estate, statute of limitation-
H. 342, pages 129, 488

Professional liability for construction, limitation regarding, altered-
H. 341, pages 128, 488, 874, 875, 876, 883, 884, 890, 922, 1131, 1138, 1182, Act No. 94-138

GENERAL FUND

Budget, provided-
H. 172, pages 62, 100, 200, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 308, 309, 310, 311, 312, 313, 314, 315, 316, 372, 373, 957, 958, 1060, 1393, 2840, 2944, 2953, 2954, 2955, 3018, 3039, 3056, Act No. 94-486

GENEVA COUNTY

Ad valorem tax, additional, county commission, authorized to levy, distribution, provided-
H. 761, pages 1425, 1701, 1962, 2075, 2076, 2583, 2602, 2751, Act No. 94-460

Pistol permit fee, increased, distribution, provided-
H. 763, pages 1426, 1701, 1962, 2076, 2077, 2583, 2602, 2751, Act No. 94-461

Probate office, special recording fee, levied by county commission, appropriation to county general fund, provided-
H. 764, pages 1426, 1701, 1962, 2077, 2078, 2583, 2602, 2751, Act No. 94-462

GEOLOGY

Board of licensure for, established-

H. 638, pages 791, 1091, 1726, 1995, 2018, 2019

S. 322, pages 3033, 3065

GEORGE C. MARSHALL SPACE FLIGHT CENTER

Recognized-

H.R. 113, page 617

H.J.R. 166, pages 816, 1130, 1138, 1182, Act No. 94-141

GHEE-CAMPBELL ACT

Named-

S.J.R. 142, pages 3606, 3607

GIBSON, JAMES A., JR.

Commended-

H.R. 256, page 1884

GILL, MINNIE LEE MCLEAN

Death mourned-

H.R. 43, page 139

GIRL SCOUTS

Commended-

S.J.R. 82, pages 1794, 1795, 1896, 2020, Act No. 94-238

GOODLOE, CAROLYN LEE

Recognized-

H.J.R. 119, pages 631, 632, 702, 1120, 1140, 1182, Act No. 94-150

GOODWIN, EDNA EARL

Commended-

H.J.R. 74, pages 436, 437, 480, 556, 567, 618, Act No. 94-66

H.R. 81, page 472

GOVERNOR

Appropriations, reduction power granted to, ca-

H. 229, pages 72, 102, 338

GOVERNOR (Continued)

Crimes of violence, persons convicted of, sentence, percentage, certain, required to serve, victim may testify at hearing, certain, reduction by, provided-

H. 601, page 628

H. 937, page 2763

Foreign nationals and prisoners, extradition to native country, authorized-
S. 246, pages 579, 1089, 3082

Joint session, committee appointed to escort to-
H.J.R. 3, pages 5, 6, 81, 140, 153, 355, Act No. 94-3

Legislature in session, committee appointed to notify-
H.J.R. 2, pages 5, 140, 153, 355, Act No. 94-2

Office of, candidates for, education reform, urged to desist-
H.J.R. 103, pages 572, 573

Officials, state, elected, recall of, provided, ca-
H. 399, pages 165, 460, 711, 1724, 1751, 1752

Public service commission, compensation, expense allowance, converted to salary, future recommendation by personnel board subject to approval by-

H. 462, pages 389, 2165

S. 367, pages 2391, 2392, 2548, 2810, 3080, 3090, 3104, 3105, 3106, 3107, 3562, Act No. 94-610

State aircraft, records kept of usage, persons accompanying an authorized person required to pay cost of travel, information about all charter and commercial flights taken, required to furnish-
H. 47, page 32

State superintendent of education, position, appointment by, powers, ca-
H. 791, page 1462
H. 890, pages 2069, 2244, 2549

Superintendent of banks, salary set by, with range established by bank board-
H. 750, pages 1196, 1666
S. 562, pages 3019, 3065

GOVERNOR'S COMMISSION ON PHYSICAL FITNESS

Appropriation, provided-
H. 194, pages 66, 1080, 1199, 1525, 2585, 2604, 2752, Act No. 94-475

GRAFFEO, VINCENT JOHN

Commended-
S.J.R. 42, pages 726, 783, 828, Act No. 94-110

GRAYSVILLE

Corporate limits, altered-

H. 539, pages 503, 1186, 1941, 1942, 1946, 3618, 3631, 3708, Act No. 94-670

GREEN, JUDITH M.

Commended-

H.R. 412, page 3048

H.J.R. 440, pages 3076, 3616, 3634, 3708, Act No. 94-629

GRIFFIN, WILLIE MAE

Commended-

S.J.R. 114, pages 2351, 2352, 2361, 2494, Act No. 94-376

GRISSOM, STEVE

Commended-

H.J.R. 265, pages 1886, 1887, 1898, 2087, 2110, 2157, Act No. 94-278

HABITAT FOR HUMANITY

Sales and use tax, exemption, provided-

H. 703, pages 1095, 2550

HABITUAL OFFENDERS

Repeat felony, committing felony of same type, to be sentenced to life-

H. 32, page 29

HALE, MARY S. PORTER

Commended-

H.J.R. 66, pages 376, 377, 419, 555, 566, 618, Act No. 94-61

HALL OF FAME BOARD

Agricultural, established-

H. 117, page 49

Senior citizens, membership and quorum, further provided-

H. 496, pages 430, 1090, 1728, 1998, 2529, 2530

HALL, SUSAN

Commended-

H.J.R. 145, pages 796, 797, 835, 1119, 1141, 1183, Act No. 94-161

HALLMARK, GORDON T.

Death mourned-
H.R. 361, page 2535

HAND, PERRY A.

Bridge, named-
S.J.R. 20, pages 435, 436, 481, 542, Act No. 94-56

HANDICAPPED

Alabama family trust fund corporation, established-
H. 453, page 386

Assistance dogs, provided-
H. 26, pages 27, 104, 518, 519, 1201

Crimes against, penalty, enhanced-
H. 103, pages 45, 1903

Interpreters and transliterators board, established-
H. 625, page 721

Parking, further provided-
H. 745, page 1195

Parking, state laws, conforming to federal laws, further provided-
H. 561, page 536

Tax notices, availability of homestead exemptions, required to include-
H. 364, pages 158, 2172

HANSEL, JOY M.

Commended-
H.J.R. 126, pages 636, 637, 704, 1121, 1140, 1182, Act No. 94-156

HARBIN, ALVIE RAY

Death mourned-
H.R. 413, page 3048

HARDY, CHRISTA VALENCIA

Commended-
H.R. 115, page 617

HARDY, FRANK**Commended-****H.J.R. 347, pages 2376, 2377, 2567, 2598, 2752, Act No. 94-427****H.R. 359, page 2535****HARPER, TAYLOR****Commended-****H.R. 433, pages 3070, 3071****HARRIS HOME FOR CHILDREN, INC.****Commended-****H.R. 445, page 3089****HARRIS, KATHY RENEEA****Commended-****H.R. 332, page 2264****HARTSELLE****Corporate limits, altered-****H. 88, pages 42, 372, 449, 730, 751, 779, Act No. 94-95****S. 114, page 727****HARTSELLE HIGH SCHOOL****Basketball team, commended-****H.J.R. 244, pages 1712, 1713, 1894, 2089, 2109, 2157, Act No. 94-270****Gymnastics' team, commended-****H.J.R. 243, pages 1711, 1712, 1894, 2089, 2109, 2157, Act No. 94-269****HATCHER, PRINCE****Commended-****H.J.R. 377, pages 2561, 2802, 2952, 3056, Act No. 94-514****H.R. 388, page 2590****HATE CRIMES****Criminal penalties, provided-****H. 7, pages 23, 104, 457, 458, 459, 471, 2768, 2947, 3056, Act No. 94-581**

HAYDEN, BOBBY

Commended-

H.J.R. 426, pages 3052, 3053, 3061, 3089, 3100, 3610, Act No. 94-502

HAYES, DEBRA S.

Commended-

H.R. 333, page 2264

HAYNES, ROBERT L.

Commended-

H.J.R. 87, pages 476, 482, 555, 567, 618, Act No. 94-71

HAZARDOUS SUBSTANCES

Public Service Commission, required to issue rules and regulations to require owners of bridges over which passengers or, travel to have warning systems, companies and locations specified-
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Municipalities, partially located in county, police jurisdiction and zoning authority of, restructured to corporate limits, ca-

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Municipalities, partially located in, police jurisdiction, provided-

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Police jurisdiction of municipality partially in county, not to extend beyond corporate limits, ca-

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S.J.R. 12, pages 391, 392, 480, 542, Act No. 94-55

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School distribution plan, participate in development of, joint, established to study-

H.J.R. 397, pages 2717, 2769, 2948, 3056, Act No. 94-485

Southern leadership goals, joint, interim, established to study, reporting time and life extended-

S.J.R. 104, pages 2156, 2163, 2294, Act No. 94-311

Toll road feasibility study, reporting time extended, established-

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H. 540, pages 503, 710, 1724, 1756, 1757, 3656, 3666, 3709, Act No. 94-655

Hunting, nonresident fees, deer season, further provided-
H. 281, pages 114, 562, 648, 678, 1727, 1995, 2012, 2013, 2762, 2945, 3055, Act No. 94-577

Insurance agents, continuing education requirements, exceptions, provided-
H. 541, pages 504, 1698, 1999
S. 331, page 2390

Medical, reinstatement of, procedure, fees altered-
H. 139, pages 54, 105, 551, 552, 1431, 1432, 1519, 1593, Act No. 94-195

Motorcycles, vanity, authorized-
H. 581, pages 571, 784

LICENSES AND LICENSING (Continued)

Motor vehicle, antique, fee, increased, use, restricted-
H. 695, pages 920, 1417

Motor vehicle, demonstration, fees, distribution of, fees, provided-
H. 345, pages 129, 363, 1723, 1729, 1730, 1738, 1788, 2766, 2947,
3056, Act No. 94-584

**Motor vehicle, distinctive, educators, retired and Alabama education associ-
ation advisory committee, authorized to purchase-**
H. 463, pages 389, 1415, 2519, 2520, 2521, 2524, 2531, 3661, 3682,
3709, Act No. 94-708

**Motor vehicle, distinctive, forest stewardship tag program, authorized to
issue-**
H. 828, pages 1628, 1903

Motor vehicle, distinctive, fraternal order of police, authorized to issue-
H. 532, pages 502, 1086, 1726, 1996, 2053, 2285, 2286, 2288
S. 375, pages 1780, 1781, 2548, 3082, 3594, 3595, 3613, Act No.
94-614

Motor vehicle, distinctive, letter carriers, authorized-
H. 850, pages 1707, 2168

Motor vehicle, distinctive, military retirees, authorized for-
H. 525, pages 500, 1086, 1727, 1997

Motor vehicle, distinctive, national guard, retirees, authorized-
H. 874, pages 1925, 2168

Motor vehicle, distinctive, out-of-state colleges, provided-
H. 22, pages 26, 483, 648, 682, 1724, 1747

Motor vehicle, distinctive, shriners, authorized-
H. 2, pages 22, 80, 422, 587, 588, 591, 592, 3663, 3683, 3709, Act No.
94-695

**Motor vehicle, distinctive, Vietnam veterans, authorized, certification by
veterans' affairs department, provided-**
H. 853, page 1708

**Motor vehicle, generic tags to replace numerous distinctive tags now being
issued-**
H. 752, page 1196

Motor vehicle, handicapped parking, further provided-
H. 745, page 1195

LICENSES AND LICENSING (Continued)

Motor vehicle, handicapped parking, state laws, conforming to federal laws, further provided-
H. 561, page 536

Motor vehicle, upon transfer of title, registration shall expire and seller shall return to the issuing authority-
H. 38, page 30

Motor vehicle, owned by persons whose drivers' licenses have been suspended, public safety department, authorized to remove from vehicles-
H. 36, page 29

Pawnshops, requirements altered-
S. 519, pages 1777, 1909

Telemarketing, regulated, telemarketers and salespersons, provided, exemptions, penalties-
H. 583, pages 571, 712, 2703, 2704, 2809, 2994, 2995, 3017, 3041, 3042, 3043, 3044, 3045, 3054, 3055, 3636, 3645, 3708, Act No. 94-650

Transient vendors, of, further provided-
H. 455, page 387
H. 831, pages 1629, 1909

LIENS

Improperly filed, must be corrected within 30 days after request by aggrieved property owner-
H. 279, pages 114, 706, 1728, 1998

Medicaid agency, improved collection efforts of third party benefits provided, lien for benefits and proceeds paid by a third party to medicaid recipient-
H. 660, pages 862, 1091, 2309, 2310, 2311

Property, fine levied for failure to file proof of satisfaction of, on real or personal property within 30 days after satisfaction-
H. 280, pages 114, 1418

LIGHTHOUSE COUNSELING CENTER

Appropriation, provided-
H. 181, pages 63, 101, 324, 325, 924, 944, 1074, Act No. 94-173

LILLICH, HARRIETT RODGERS**Commended-**

H.J.R. 150, pages 800, 801, 836, 1120, 1142, 1183, Act No. 94-166

LIMESTONE COUNTY

Jail store, sheriff may operate, telephone service for inmates, provided, jail fund, established-

H. 779, pages 1460, 1702, 1966, 1967, 2367, 2496, 2541, Act No. 94-385

Junkyards, licensing of, junk and motor vehicles, accumulation of, public nuisance, declared-

H. 555, pages 534, 1093, 1475, 1476, 3641, 3649, 3708, Act No. 94-671

Pistol permit fees, increased, sheriff's law enforcement fund, established-

H. 778, pages 1459, 1460, 1702, 1965, 2805, 2949, 3055, Act No. 94-551

LIONS SIGHT CONSERVATION ASSOCIATION, INC.**Commended-**

H.J.R. 224, pages 1590, 1591, 1691, 2090, 2111, 2157, Act No. 94-286

LIQUEFIED PETROLEUM GAS BOARD**Appropriation, provided-**

H. 430, pages 173, 784, 2809, 2990, 2991, 2992, 2993, 3049, 3617, 3631, 3708, Act No. 94-648

Appropriation, supplemental, provided-

H. 503, page 432

Heaters, unvented, use of, in residences, and in mobile homes, authorized, regulation, provided-

H. 810, pages 1469, 1908, 2314, 2316, 2339, 3640, 3649, 3708, Act No. 94-706

Provisions, revised-

H. 293, pages 116, 370, 891, 892, 897, 898, 1647, 1676, 1890, Act No. 94-211

LITTER

Commercial motor vehicles, loads carried to landfills required to be covered-

H. 746, page 1195

Marine sanitation, residence boats and vessels regulated, environmental management department to administer-

H. 862, pages 1922, 2171

LIVESTOCK

Dealers, fees, bond, amount of, based upon amount of gross sales, agriculture and industries board, authorized to set-
H. 571, pages 569, 708

Definition, altered-

H. 268, pages 111, 368, 650, 732, 745, 876, 883

S. 282, pages 578, 710, 876, 877, 883, 1799, 1800, 2268, 2274, 2324,
Act No. 94-322

Definition of, in S. 282, attorney general opinion requested regarding constitutionally of-

H.R. 434, page 3072

Public livestock marketing act, charters, meeting place of board, revolving funds, appropriated, revoked charter, appeals procedure for-

H. 444, pages 384, 562, 1728, 1998

LOANS

Consumer, late charge of five percent or two dollars whichever is greater-

S. 439, pages 3031, 3064

Savings bank law, merging savings and loans and banking activities, certain, locally and regionally, investment and loan regulations, licensure, penalties, provided-

H. 715, page 1098

LOCAL GOVERNMENT TRAINING INSTITUTE

County commission, members, newly elected, required to attend-

H. 140, pages 55, 108, 1131, 1143, 1144, 1145, 1146, 1147, 1148,
2767, 2947, 3056, Act No. 94-598

LONG, JAMIE

Commended-

H.R. 157, page 802

LONGEVITY PAY

Local legislative delegation offices, credit for prior service, provided-

H. 282, pages 114, 363, 2809, 2989, 2990, 3623, 3634, 3708, Act No.
94-717

LOTTERIES

State-operated, established, private lotteries prohibited, lottery commission established, ca-

H. 141, page 55

State operated, lottery commission, lottery trust fund, established-

H. 125, page 51

LOWE, SALLIE

Commended-

H.J.R. 235, pages 1669, 1670, 1693, 2090, 2112, 2157, Act No. 94-292

LOWERY QUARTET

Commended-

H.J.R. 324, pages 2181, 2182, 2576, 2601, 2751, Act No. 94-453

H.R. 325, page 2182

LOWNDES COUNTY

Littering laws, health department may enforce-

S. 670, pages 3021, 3022, 3065

Sheriff compensation, increased-

S. 671, pages 3024, 3025, 3065

S. 673, pages 3025, 3065

LUCEY, WILLIAM C.

Death mourned-

H.J.R. 149, pages 799, 800, 836, 1120, 1141, 1183, Act No. 94-165

LURLEEN B. WALLACE STATE JUNIOR COLLEGE

Appropriation, supplemental, provided, name changed-

H. 349, page 154

LYMAN WARD MILITARY ACADEMY

Appropriation, provided-

H. 204, pages 68, 1081, 1200, 1545, 1547, 2324, 2333, 2356, Act No. 94-328

LYNN HIGH SCHOOL

Football team, commended-

H.J.R. 285, pages 1985, 2059, 2569, 2600, 2751, Act No. 94-441

MACARTHUR STATE TECHNICAL COLLEGE

Appropriation, supplemental, provided, name changed-

H. 349, page 154

MACEDONIA BAPTIST CHURCH

Recognized-

H.R. 228, page 1592

MADISON COUNTY

Ad valorem tax, additional, county commission, authorized to levy, distribution, provided-

H. 370, pages 159, 1187, 1433, 1434, 1436, 1438, 1439, 2370, 2498, 2541, Act No. 94-395

Child protection board, established-

H. 705, pages 1095, 1188, 1487, 1488, 2577, 2596, 2751, Act No. 94-469

Focus north Alabama established, to prohibit antisocial behavior in youth, appropriation from special educational trust fund-

S. 526, pages 2588, 3063

Officials, elected, recall of, provided, ca-

H. 374, page 160

Pretrial intervention program, established by district attorney-

H. 615, pages 719, 1188, 1484, 2368, 2497, 2541, Act No. 94-392

Sites and adjacent property for parks and public purposes at county expense, county commission, authorized to prepare-

H. 528, pages 501, 1188, 1434, 1435, 2370, 2498, 2541, Act No. 94-351

State docks property in Madison county, to be conveyed to Huntsville-Madison county marina and port authority, ca-

H. 704, pages 1095, 1188, 1486, 1487, 2365, 2502, 2541, Act No. 94-347

MAGIC MOMENTS, INC.

Sales and use taxes, all, exemption, provided-

H. 28, pages 28, 362, 734, 773, 774, 1678, 1679, 1890, Act No. 94-212
S. 95, pages 578, 2548

MAGNOLIA TRAIL

Named-

H.J.R. 354, pages 2406, 2407, 2567, 2599, 2751, Act No. 94-433

MAHER, THOMAS C.

Public service recognized and honored posthumously-

H.J.R. 47, pages 174, 360, 406, 433, Act No. 94-42
S.J.R. 8, pages 94, 95, 143, 144, 375, Act No. 94-26

MALCOLM, JEFFERY

Commended-

H.J.R. 146, pages 797, 835, 1119, 1141, 1183, Act No. 94-162

MANDATE AUDITOR

Position, established-
H. 861, page 1922

MANUFACTURED HOUSING

Liquefied petroleum gas, unvented heaters, use of, in, authorized,
regulation, provided-
H. 810, pages 1469, 1908, 2314, 2316, 2339, 3640, 3649, 3708, Act
No. 94-706

Month, designated-
H.R. 451, page 3608

MARENGO COUNTY

Board of registrars, meeting days, increased-
H. 552, pages 533, 1093, 2084, 2700, 2774, 3055, Act No. 94-530

Emergency e-911 telephone service, election on, county commission,
authorize to call-
H. 835, pages 1704, 1909, 2078, 2079, 2584, 2602, 2751, Act No.
94-464

MARINE ENVIRONMENTAL SCIENCES CONSORTIUM

Board of directors, chief officer of member institution may designate
replacement-
S. 28, page 581

MARINE POLICE

Arrest powers in dui cases, further provided-
H. 457, pages 387, 490

MARION COUNTY

Board of registrars, meeting days, altered-
H. 250, pages 77, 363, 848, 849, 1677, 1679, 1890, Act No. 94-249

MARION MILITARY INSTITUTE

Appropriation, provided-
H. 205, pages 68, 1081, 1200, 1547, 1549, 2324, 2333, 2356, Act No.
94-329

MARS HILL BAPTIST CHURCH

Commended-
H.R. 360, page 2535
H.R. 436, pages 3073, 3074

MARSAL, M. A.

Death mourned-

H.J.R. 91, pages 505, 506, 531, 553, 568, 618, Act No. 94-75

MASS TRANSIT

Advisory committee to study, time to report, extended-

S.J.R. 13, pages 393, 421, 461, Act No. 94-48

S.J.R. 57, pages 1454, 1687, 1914, Act No. 94-223

MATERIALMEN

Limitation of liability for construction on real estate, statute of limitation-

H. 342, pages 129, 488

MAYHEW, GEORGIA

Commended-

H.R. 403, page 2749

MAYORS

Supernumerary positions, establishment, prohibited, employees' retirement system, participation in, ca-

H. 58, pages 35, 100, 199, 316, 407, 455, 456, 3625, 3628, 3707, Act No. 94-607

MCBRIDE, ANGUS, JR.

Commended-

H.J.R. 16, pages 15, 16, 98, 152, 307, 356, Act No. 94-15

MCCAIG WELLBORN LIBRARY

Appropriation, supplemental, provided-

H. 621, page 721

MCCOMAS, MURRAY K.

Commended-

H.J.R. 231, pages 1666, 1667, 1692, 2090, 2111, 2157, Act No. 94-288

MCCONNELL, JAMES V.

Death mourned-

H.J.R. 121, pages 633, 703, 1120, 1140, 1182, Act No. 94-152

MCCORVEY, DAVID ENNIS

Commended-

H.J.R. 85, pages 474, 475, 482, 554, 567, 618, Act No. 94-69

MCDANIEL, JAMES

Commended-

S.J.R. 61, pages 351, 352, 361, 406, 432, Act No. 94-41

MCDANIEL, ROBERT

Death mourned-

S.J.R. 91, pages 2049, 2050, 2061, 2140, Act No. 94-265

MCDONALD, EARL

Commended-

S.J.R. 58, pages 1454, 1455, 1687, 1914, Act No. 94-224

MCGHEE, MARSHALL E.

Commended-

H.J.R. 351, pages 2379, 2380, 2567, 2599, 2751, Act No. 94-431

H.R. 454, page 3609

MCGILL, LEWIS, JR.

Commended-

H.R. 259, page 1884

MCINTOSH, MATTIE LEE

Commended-

H.R. 399, page 2746

H.J.R. 402, pages 2748, 2759, 3088, 3100, 3610, Act No. 94-505

MCKEEVER, MR. AND MRS. CARL J.

Commended-

S.J.R. 59, pages 1454, 1455, 1687, 1914, Act No. 94-225

MCNEES, ALLEN L.

Death mourned-

H.R. 205, page 1205

MCWHORTER, VALARIE LYNN

Commended-

H.R. 313, page 2154

MEAD CONTAINERBOARD'S STEVENSON MILL

Commended-

H.J.R. 71, pages 380, 381, 420, 556, 567, 618, Act No. 94-65

MEDICAID

Health insurers, denial of enrollment of individual based on eligibility, prohibited-

H. 613, pages 718, 1090, 2306, 2307, 3662, 3682, 3709, Act No. 94-709

Nonfederally mandated benefits, elimination provided for-

H. 894, page 2070

MEDICAID AGENCY

Improved collection efforts of third party benefits provided, lien for benefits and proceeds paid by a third party to medicaid recipient-

H. 660, pages 862, 1091, 2309, 2310, 2311

MEDICAL CLINIC BOARDS

Counties, authorized to incorporate-

H. 16, pages 25, 108, 589, 590, 601, 602, 623, 3689, 3706, 3709, Act No. 94-642

MEDICARE

Supplement policies, time to return policy by applicant, provided-

H. 344, pages 129, 490, 649, 732, 738

S. 377, pages 1637, 1638, 1698

MEDICINE

Accounts, individual, may be established to defray costs of medical, dental, and long-term health care-

H. 365, pages 158, 491

Anatomical gifts, intent on driver's license and non-driver i.d. cards, availability of organs without regard to age, university of Alabama-

Birmingham and university of south Alabama to act as clearinghouse-

H. 811, pages 1469, 1697

Clinic boards, counties, authorized to incorporate-

H. 16, pages 25, 108, 589, 590, 601, 602, 623, 3689, 3706, 3709, Act No. 94-642

Insurance coverage for off-labeling drugs for therapeutic effects under certain conditions-

S. 582, pages 3019, 3065

Licensure, reinstatement of licenses, procedure, fees altered-

H. 139, pages 54, 105, 551, 552, 1431, 1432, 1519, 1593, Act No. 94-195

MEDICINE (Continued)

Medical scholarships, amount, maximum, increased, procedure, altered-

H. 228, pages 72, 362, 649, 695

S. 67, pages 556, 560, 695, 696, 713, Act No. 94-103

Nurse practitioners, authorized to practice medicine and dispense drugs in collaboration with physicians-

H. 796, pages 1463, 1697

S. 570, pages 2261, 2371, 2811, 3082

Prescription drugs, certain, physician assistants, may prescribe-

H. 795, pages 1463, 1697, 2087, 2091, 2092, 2093

S. 571, pages 1769, 1770, 1905, 2092, 2093, 2141, Act No. 94-261

Records, costs for reproduction and delivery-

H. 454, page 386

H. 563, pages 537, 711

S. 431, pages 1303, 1663, 3081, 3576, 3577, 3578, 3579, 3580, 3581, 3613, Act No. 94-609

Respiratory care, practice defined-

H. 476, pages 426, 1189

MENTAL HEALTH

Alabama family trust, established-

H. 618, pages 720, 785, 1444, 2768, 2946, 3055, Act No. 94-579

Commitment procedure, temporary, established-

H. 241, pages 75, 105, 549, 2958, 2959, 3034, 3572, 3572, 3576, 3637, 3647, 3708, Act No. 94-690

Officers, may be appointed by probate judge to examine a respondent during involuntary commitment proceedings-

H. 754, pages 1197, 1418

State committee on drug abuse and alcoholism, and division of mental health for drug abuse and alcoholism, created-

H. 519, page 499

Victims bill of rights, established-

H. 483, pages 427, 1905

MENTAL HEALTH AND MENTAL RETARDATION DEPARTMENT

Alabama family trust, established to supplement care, support, habilitation and treatment of persons who are mentally or physically impaired-

H. 618, pages 720, 785, 1444, 2768, 2946, 3055, Act No. 94-579

Appropriation, supplemental, provided-

H. 285, pages 115, 1902, 2094, 2095, 2107, 2664, 2771, 3055, Act No. 94-517

MENTAL HEALTH AND MENTAL RETARDATION DEPARTMENT (Continued)

Criminal justice information center, criminal history background information on employees, prospective, authorized to access-

H. 144, pages 55, 487, 1724, 1752, 1753, 1755, 1787, 2766, 2947, 3056, Act No. 94-583

S. 208, pages 1770, 1771, 1904

State committee on drug abuse and alcoholism, and division of mental health for drug abuse and alcoholism, created-

H. 519, page 499

Substance abuse treatment office, established-

H. 517, page 499

MERIT SYSTEM

Municipalities, certain, firefighters, outside, authorized to hire-

H. 322, pages 123, 124

Municipalities, certain, police, authorized to hire outside-

H. 333, page 127

State employees, dismissal procedures, further provided-

H. 113, pages 48, 487

State, provisional appointments, further provided-

H. 309, page 120

METALS

Metal recyclers of nonferrous metals, records, required to keep, inspection by law enforcement officers, purchases and sales regulated, civil remedies to proper owner, criminal penalties, provided-

H. 302, pages 118, 563

S. 82, pages 574, 575, 2371

MID-CONTINENT OIL & GAS ASSOCIATION

Commended-

S.J.R. 109, pages 2349, 2360, 2494, Act No. 94-372

MIDFIELD

Corporate limits, altered-

H. 130, pages 52, 1186, 1947, 2074, 2075

MILES COLLEGE

Appropriation, provided-

H. 196, pages 66, 1080, 1199, 1530, 2297, 2299, 2355

MILITARY

Employees' and teachers' retirement systems, service, certain, purchase of,
reopened for-
H. 438, page 383

Leave of absence with pay, converted from 21 days to 168 hours-
H. 372, pages 159, 493, 650, 733, 756

Retirees, license plates, distinctive, authorized to purchase-
H. 525, pages 500, 1086, 1727, 1997

MILLBROOK

Annexation, procedure, further provided-
H. 326, pages 124, 125, 566, 647, 806, 807, 808

Corporate limits, and Prattville, extension of, ca-
H. 149, pages 57, 566, 647, 805, 806, 825, 834, 841

MINES AND MINING

Coal severance tax proceeds, distribution, altered-
H. 233, page 73

MINING MUSEUM

Appropriation, provided-
H. 182, pages 64, 101, 325, 326

MINORS

Adoption, final decree may not be collaterally attacked-
H. 576, page 570

Child labor laws, rewritten, penalties-
H. 353, pages 155, 485
S. 406, pages 1449, 3064

Divorce, children, joint custody of, further provided-
H. 665, page 863

Physical abuse, procedures for under age 16 same as for children under
age 16 in crimes of sexual abuse-
H. 527, pages 501, 1088, 1724, 1741, 1742, 3636, 3644, 3708, Act No.
94-704

Youth access to tobacco act, established-
H. 137, pages 54, 105, 154, 366

Youthful offenders, ranges of punishment, established-
H. 599, page 627

MISSETT, JUDI SHEPPARD

Commended-

S.J.R. 15, pages 393, 394, 461, Act No. 94-45

MISSING IN ACTION

Southeast Asia prisoners of war and, attorney general, file suit on behalf of-
H.J.R. 48, pages 175, 183, 480, 1750, 1880, 1891, Act No. 94-243

MISSION OF HOPE, INC.

Sales and use taxes, exemption, provided-

H. 559, pages 536, 565, 643, 1749, 1879, 1891, Act No. 94-218

MISSIONARY SERVANTS OF THE MOST BLESSED TRINITY

Commended-

H.J.R. 55, pages 199, 361, 406, 432, Act No. 94-39

MISSISSIPPI, STATE OF

Franklin county and Red Bay, regional airport authorities with, incorporation,
authorized, ca-
H. 63, pages 36, 154, 370, 438, 439, 1800, 1912, 2054, Act No. 94-204
H. 655, pages 861, 945, 1703, 1973, 1993, 1994

MIXON, BRYANT

Commended-

S.J.R. 74, pages 1791, 1792, 1894, 2020, Act No. 94-233

MOBILE

Occupational disease benefits for police under city pension system,
provided-
H. 313, pages 121, 122, 565, 644

Parking authority, bonds, issuance of, operation-

H. 596, pages 626, 627, 712, 811, 1749, 1879, 1891, Act No. 94-254

MOBILE COUNTY

Board of education, funds to Semmes youth athletic association to build
road on school property for access to recreational facility, authorized to
appropriate-
H. 728, pages 1190, 1703, 1976, 1977

MOBILE COUNTY (Continued)

Civil service system, vacancies filled by appointing authority-

S. 397, pages 729, 730, 1094, 1442, 1443, 1557, Act No. 94-197

Dog racing commission, distribution of funds to law enforcement and firefighters pension fund-

S. 627, page 3020

Junkyards and accumulation of junk, public nuisance, licensing of junkyards-

H. 40, pages 30, 31, 565, 641, 642, 643, 1749, 1879, 1891, Act No. 94-216

Mobile arts and sport association, taxes, sales and use, exemption, provided-

H. 236, pages 73, 74, 372, 448, 511, 1060, 1067, 1074, Act No. 94-119

Municipalities having population of 1,100 or less, dissolution procedure, further provided-

H. 41, pages 31, 108, 452, 453, 1136, 1142, 1183, Act No. 94-167

Pretrial diversion program, established-

H. 39, pages 30, 564, 641

Public utility authorities, board of directors, compensation, additional-

H. 603, pages 628, 713, 845, 2082, 2109, 2157, Act No. 94-306

Sheriff's deputies, cost of living and merit pay increase, provided-

H. 595, pages 626, 712, 809, 810, 1749, 1879, 1891, Act No. 94-208

MOBILE HOMES

Liquefied petroleum gas, heaters, unvented and vented, use of, in, authorized, regulation, provided-

H. 810, pages 1469, 1908, 2314, 2316, 2339, 3640, 3649, 3708, Act No. 94-706

MOLAND, JOHN, JR.

Commended-

H.J.R. 338, pages 2344, 2345, 2359, 2576, 2601, 2751, Act No. 94-458

MONROE COUNTY

Coroner, compensation, provided-

H. 929, pages 2374, 2375, 2553, 2779, 2780, 3623, 3632, 3708, Act No. 94-701

S. 676, pages 3023, 3065

MONTGOMERY ACADEMY

1993-94 boys' junior high "B" basketball team, commended-
S.J.R. 66, pages 1451, 1452, 1689, 1914, Act No. 94-228

1993-94 boys' junior high varsity basketball team, commended-
S.J.R. 67, pages 1452, 1689, 1915, Act No. 94-229

1993-94 girls' junior high "B" basketball team, commended-
S.J.R. 68, pages 1452, 1688, 1915, Act No. 94-230

MONTGOMERY COUNTY

Employees, thirty year retirement, provided-
H. 822, pages 1626, 1627, 1703, 1977, 1978, 3091, 3102, 3610, Act
No. 94-569
S. 591, page 1989

Sheriff, deputies, badge and gun, authorized to receive upon retirement-
H. 825, pages 1628, 1704, 1978, 1979, 3620, 3629, 3708, Act No.
94-659

MONTGOMERY HOUSING AUTHORITY

Basketball team, commended-
H.R. 384, page 2589

MONTGOMERY SOUTHEAST BLACK ALL STARS

Commended-
H.J.R. 300, pages 2048, 2060, 2569, 2600, 2752, Act No. 94-448

MONTGOMERY SOUTHEAST BLUE 8-YR-OLD ALL STARS

Commended-
H.J.R. 298, pages 2046, 2047, 2060, 2569, 2600, 2751, Act No. 94-444

MONTGOMERY SOUTHEAST BLUE 9-YR-OLD ALL STARS

Commended-
H.J.R. 299, pages 2047, 2060, 2569, 2600, 2752, Act No. 94-445

MOODY

Corporate limits, altered-
H. 920, pages 2372, 2553, 2778, 2779, 3621, 3629, 3708, Act No.
94-696

MOORE, MARY J.

Death mourned-
H.R. 108, page 611

MOORE, ROBERT JAMES

Commended-
H.J.R. 310, pages 2152, 2153, 2164, 2566, 2597, 2751, Act No. 94-420

MOORE, THOMAS M.

Commended-
S.J.R. 16, pages 394, 461, Act No. 94-46

MORGAN COUNTY

District judgeship, additional, established-
H. 901, pages 2072, 2168, 2406

Sheriff or deputy to personally serve subpoenas-
S. 428, pages 728, 2067, 2240, 2363, Act No. 94-368

MORTGAGE FORECLOSURE

Real property, advertised notices of, required to include street address or
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NIX, PRESTON

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Voter registration lists, provided to chairpersons of county executive committees of, after the elections-

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PORTERA, MARGARET W.

Commended-

S.J.R. 108, pages 2249, 2294, Act No. 94-259

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sreb states-

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POWELL, LACEY E., JR.

Commended-

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H. 795, pages 1463, 1697, 2087, 2091, 2092, 2093

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PRESLEY, DAN

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PRICE, MIKE

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H.R. 362, page 2536

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H. 263, pages 110, 365

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H. 570, pages 569, 658, 708

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Youth services department, juvenile, allocation of, salary subsidies, revised, minimum standards, provided-

H. 381, pages 161, 1902, 2811

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H. 213, pages 69, 1082, 1201, 1560, 1562, 1563, 2001, 2002, 3626, 3635, 3708, Act No. 94-678

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Cook, captain Roger, commended-

S.J.R. 132, pages 2750, 2760, 3094, Act No. 94-494

Cook, Ruth B., honored posthumously-

H.J.R. 281, pages 1981, 1982, 2058, 2568, 2599, 2751, Act No. 94-437

H.R. 286, page 1986

Cooke, reverend Clarence J., sr., commended-

S.J.R. 23, pages 436, 481, 542, Act No. 94-58

Crane, Paul, commended-

H.R. 97, page 524

H.J.R. 98, pages 525, 526, 532, 554, 568, 618, Act No. 94-80

Cullins, James, commended-

H.J.R. 284, pages 1984, 2059, 2569, 2599, 2751, Act No. 94-440

Cunningham, Earl C., commended-

H.J.R. 270, pages 1917, 2088, 2111, 2158, Act No. 94-281

H.R. 271, page 1918

Curry, Laura, commended-

H.R. 155, page 802

Davis, Mary L., commended-

H.R. 60, page 351

H.R. 77, page 472

Disaster relief agencies and volunteers, palm sunday storms, commended-

H.J.R. 411, pages 2957, 3088, 3100, 3610, Act No. 94-500

Dortch, Doris A., commended-

H.J.R. 93, pages 507, 508, 531, 554, 568, 618, Act No. 94-77

RESOLUTION, CONGRATULATORY (Continued)

Dotzler, Asa G., commended-

H.J.R. 209, pages 1314, 1685, 2101, 2113, 2158, Act No. 94-299

Dotzler, Thomas P., commended-

H.J.R. 208, pages 1313, 1314, 1685, 2101, 2113, 2157, Act No. 94-298

Drake, Tom, commended-

H.J.R. 212, pages 1411, 1412, 1683, 1747, 1891, Act No. 94-214

Driver, Virginia Gertrude Vaughn, commended-

H.R. 427, page 3053

Duff, Janice, commended-

H.R. 444, page 3089

Eagles, Tommy Joe, commended-

S.J.R. 117, pages 2352, 2353, 2362, 2495, Act No. 94-379

East Lawrence high school varsity cheerleaders, commended-

S.J.R. 49, pages 930, 931, 1078, 1132, Act No. 94-126

Elms, Patrick, commended-

H.J.R. 147, pages 798, 835, 1119, 1141, 1183, Act No. 94-163

Emmett, Sue, commended-

H.J.R. 56, pages 348, 349, 361, 406, 432, Act No. 94-40

Esham, Richard H., commended-

H.J.R. 191, pages 1070, 1071, 1078, 1207, 1209, 1318, Act No. 94-189

Estis, Lee, commended-

H.R. 162, page 803

Everitt, Henry O., commended-

S.J.R. 44, pages 805, 837, 898, Act No. 94-111

Exxon, commended-

H.R. 277, page 1927

H.J.R. 278, pages 1927, 1928, 2057, 2565, 2597, 2751, Act No. 94-415

S.J.R. 100, pages 2155, 2162, 2294, Act No. 94-258

Fairfield city schools' project dare program; Belcher, Frank, commended-

H.R. 336, page 2267

Farmer, Kenneth, commended-

H.J.R. 168, pages 831, 832, 838, 1130, 1139, 1183, Act No. 94-143

RESOLUTION, CONGRATULATORY (Continued)

Faulkner, Gene, commended-
H.R. 398, page 2721

Finley, Sara Crews, commended-
S.J.R. 146, pages 3697, 3698, 3702, Act No. 94-646

Flakes, Curtis M., commended-
H.J.R. 40, pages 137, 138, 145, 348, 374, 417, Act No. 94-33

Forestry commission employees, commended-
S.J.R. 63, pages 1456, 1688, 1914
S.J.R. 86, pages 1798, 1799, 1897, 2020, Act No. 94-241

Foshee, E. C., commended-
S.J.R. 129, pages 2695, 2697, 2756, Act No. 94-506

Fox, Harry, commended-
H.R. 322, page 2180
H.J.R. 323, pages 2180, 2181, 2576, 2601, 2751, Act No. 94-452

Futures golf tour, welcomed to alabama-
H.J.R. 223, pages 1589, 1590, 1691, 2090, 2111, 2157, Act No. 94-285

G. F. Shields high school boys' basketball team, commended-
S.J.R. 122, pages 2539, 2540, 2546, 2595, Act No. 94-408

Garrett, John A., commended-
H.J.R. 358, pages 2534, 2535, 2545, 2546, 2801, 2952, 3056, Act No.
94-510
H.R. 368, page 2536

Garzon, George A., commended-
S.J.R. 31, pages 723, 782, 828, Act No. 94-105

Geiss, Linda Brooks, commended-
H.J.R. 190, pages 1069, 1070, 1078, 1206, 1208, 1317, Act No. 94-188

George c. marshall space flight center, recognized-
H.R. 113, page 617
H.J.R. 166, pages 816, 1130, 1138, 1182, Act No. 94-141

Gibson, James A., jr., commended-
H.R. 256, page 1884

Goodloe, Carolyn Lee, recognized-
H.J.R. 119, pages 631, 632, 702, 1120, 1140, 1182, Act No. 94-150

RESOLUTION, CONGRATULATORY (Continued)

Goodwin, Edna Earl, commended-

H.J.R. 74, pages 436, 437, 480, 556, 567, 618, Act No. 94-66

H.R. 81, page 472

Graffeo, Vincent John, commended-

S.J.R. 42, pages 726, 783, 828, Act No. 94-110

Green, Judith M., commended-

H.R. 412, page 3048

H.J.R. 440, pages 3076, 3616, 3634, 3708, Act No. 94-629

Griffin, Willie Mae, commended-

S.J.R. 114, pages 2351, 2352, 2361, 2494, Act No. 94-376

Grissom, Steve, commended-

H.J.R. 265, pages 1886, 1887, 1898, 2087, 2110, 2157, Act No. 94-278

Hale, Mary S. Porter, commended-

H.J.R. 66, pages 376, 377, 419, 555, 566, 618, Act No. 94-61

Hall, Susan, commended-

H.J.R. 145, pages 796, 797, 835, 1119, 1141, 1183, Act No. 94-161

Hansel, Joy M., commended-

H.J.R. 126, pages 636, 637, 704, 1121, 1140, 1182, Act No. 94-156

Hardy, Christa Valencia, commended-

H.R. 115, page 617

Hardy, Frank, commended-

H.J.R. 347, pages 2376, 2377, 2567, 2598, 2752, Act No. 94-427

H.R. 359, page 2535

Harper, Taylor, commended-

H.R. 433, pages 3070, 3071

Harris home for children, incorporated, commended-

H.R. 445, page 3089

Harris, Kathy Reneea, commended-

H.R. 332, page 2264

Hartselle high school basketball team, commended-

H.J.R. 244, pages 1712, 1713, 1894, 2089, 2109, 2157, Act No. 94-270

Hartselle high school gymnastics' team, commended-

H.J.R. 243, pages 1711, 1712, 1894, 2089, 2109, 2157, Act No. 94-269

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Hatcher, Prince, commended-

H.J.R. 377, pages 2561, 2802, 2952, 3056, Act No. 94-514

H.R. 388, page 2590

Hayden, Bobby, commended-

H.J.R. 426, pages 3052, 3053, 3061, 3089, 3100, 3610, Act No. 94-502

Hayes, Debra S., commended-

H.R. 333, page 2264

Haynes, Robert L., commended-

H.J.R. 87, pages 476, 482, 555, 567, 618, Act No. 94-71

Hendricks, Elias and Gaynell, commended-

H.R. 180, page 908

Herring, Robert, commended-

H.J.R. 211, pages 1316, 1686, 2101, 2113, 2158, Act No. 94-301

Hicks, Davina and Regina, commended-

S.J.R. 40, pages 725, 726, 783, 828, Act No. 94-109

S.J.R. 45, pages 805, 837, 898, Act No. 94-112

Hill, Michael L., commended-

H.J.R. 187, pages 939, 940, 1077, 1206, 1208, 1317, Act No. 94-187

Holland, James; Sacred-Aires quartet, commended-

H.R. 131, page 697

Hollman, David, commended-

H.R. 159, page 802

Hooks, Max and Nell; Mountainboro watch patrol, recognized-

H.J.R. 186, pages 931, 932, 1077, 1206, 1208, 1318, Act No. 94-186

Housel, David, commended-

S.J.R. 103, pages 2155, 2156, 2163, 2294, Act No. 94-310

Inge family, commended-

H.J.R. 75, pages 437, 438, 480, 554, 567, 618, Act No. 94-67

Ingle, Todd, commended-

H.J.R. 311, pages 2153, 2164, 2566, 2597, 2751, Act No. 94-421

Ingram, Thomas, Jr., commended-

H.J.R. 9, pages 9, 10, 96, 151, 306, 355, Act No. 94-8

H.R. 29, page 81

Inscoc, Turner, commended-

S.J.R. 138, pages 3053, 3062, 3093, Act No. 94-493

RESOLUTION, CONGRATULATORY (Continued)

Jackson, Bobby, commended-
H.R. 405, page 2749

Jackson, Mackenzie, commended-
H.R. 139, page 776
H.J.R. 141, pages 777, 778, 784, 1100, 1115, 1182, Act No. 94-124
H.R. 216, page 1447

Jefferson county chapter, coalition of 100 black women, commended-
H.J.R. 229, pages 1592, 1593, 1691, 2090, 2111, 2157, Act No. 94-287

John T. Morgan academy football team, commended-
H.J.R. 133, pages 715, 716, 781, 1100, 1115, 1182, Act No. 94-121

Jolly, Anne, commended-
H.J.R. 276, pages 1920, 2057, 2568, 2599, 2751, Act No. 94-435

Jones, Dorothy Posey, commended-
H.J.R. 54, pages 188, 361, 406, 432, Act No. 94-36

Kappa alpha psi fraternity, commended-
H.R. 327, page 2183

Kelley, Constance H., commended-
H.J.R. 10, pages 10, 11, 96, 151, 306, 355, Act No. 94-9

Kelley, James Hayward, commended-
H.J.R. 110, pages 613, 614, 622, 702, 752, 779, Act No. 94-100

Kendricks, Frank, commended-
S.J.R. 127, pages 2538, 2547, 2595, Act No. 94-412

Kennedy, Elizabeth, commended-
H.J.R. 378, pages 2561, 2562, 2802, 2952, 3056, Act No. 94-515
H.R. 385, page 2589

Kennedy, Wayne Malcolm, commended-
H.J.R. 346, pages 2375, 2376, 2567, 2598, 2752, Act No. 94-426

King, H. Gordon, commended-
H.R. 213, page 1446

King, Olin B., commended-
S.J.R. 26, pages 611, 612, 621, 714, Act No. 94-89

King, T. Keith, commended-
H.J.R. 92, pages 506, 507, 531, 554, 568, 618, Act No. 94-76

RESOLUTION, CONGRATULATORY (Continued)

Kirby, Bob, commended-

H.J.R. 22, pages 21, 99, 153, 308, 356, Act No. 94-21

Kosloff, Greg, commended-

H.R. 217, page 1448

Lakes, Larry, commended-

H.J.R. 348, pages 2377, 2378, 2567, 2598, 2752, Act No. 94-428

H.R. 363, page 2536

Langford, Larry, commended-

H.J.R. 39, pages 136, 145, 348, 374, 417, Act No. 94-32

H.R. 44, page 139

Lauderdale county high school girls' basketball team, commended-

H.R. 287, page 1986

Leatherbury, E. Roberts, commended-

H.J.R. 134, pages 716, 717, 782, 1100, 1115, 1182, Act No. 94-122

LeFlore high school basketball team, commended-

H.J.R. 242, pages 1711, 1894, 2088, 2109, 2157, Act No. 94-268

S.J.R. 115, pages 2351, 2353, 2362, 2494, Act No. 94-377

LeFlore high school girls' basketball team, commended-

S.J.R. 101, pages 2155, 2156, 2162, 2163, 2294, Act No. 94-309

LeMay, Chris, commended-

S.J.R. 27, pages 611, 612, 621, 714, Act No. 94-90

Leroy high school football team, commended-

H.R. 130, page 697

Lett, Leon, Jr., commended-

H.R. 206, page 1312

Lewis, O.L., commended-

H.J.R. 448, pages 3554, 3555, 3617, 3634, 3708, Act No. 94-631

H.R. 452, page 3608

Liberty middle school academic team, commended-

H.J.R. 169, pages 841, 842, 911, 1130, 1139, 1183, Act No. 94-144

Lillich, Harriett Rodgers, commended-

H.J.R. 150, pages 800, 801, 836, 1120, 1142, 1183, Act No. 94-166

Lions sight conservation association, Inc., commended-

H.J.R. 224, pages 1590, 1591, 1691, 2090, 2111, 2157, Act No. 94-286

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Long, Jamie, commended-
H.R. 157, page 802

Lowe, Sallie, commended-
H.J.R. 235, pages 1669, 1670, 1693, 2090, 2112, 2157, Act No. 94-292

Lowery quartet, commended-
H.J.R. 324, pages 2181, 2182, 2576, 2601, 2751, Act No. 94-453
H.R. 325, page 2182

Lynn high school football team, commended-
H.J.R. 285, pages 1985, 2059, 2569, 2600, 2751, Act No. 94-441

Macedonia baptist church, recognized-
H.R. 228, page 1592

Malcolm, Jeffery, commended-
H.J.R. 146, pages 797, 835, 1119, 1141, 1183, Act No. 94-162

Mars Hill baptist church, commended-
H.R. 360, page 2535
H.R. 436, pages 3073, 3074

Mayhew, Georgia, commended-
H.R. 403, page 2749

McBride, Angus, Jr., commended-
H.J.R. 16, pages 15, 16, 98, 152, 307, 356, Act No. 94-15

McComas, Murray K., commended-
H.J.R. 231, pages 1666, 1667, 1692, 2090, 2111, 2157, Act No. 94-288

McCorvey, David Ennis, commended-
H.J.R. 85, pages 474, 475, 482, 554, 567, 618, Act No. 94-69

McDaniel, James, commended-
H.J.R. 61, pages 351, 352, 361, 406, 432, Act No. 94-41

McDonald, Earl, commended-
S.J.R. 58, pages 1454, 1455, 1687, 1914, Act No. 94-224

McGhee, Marshall E., commended-
H.J.R. 351, pages 2379, 2380, 2567, 2599, 2751, Act No. 94-431
H.R. 454, page 3609

McGill, Lewis, Jr., commended-
H.R. 259, page 1884

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McIntosh, Mattie Lee, commended-

H.R. 399, page 2746

H.J.R. 402, pages 2748, 2759, 3088, 3100, 3610, Act No. 94-505

McKeever, mr. and mrs. Carl J., commended-

S.J.R. 59, pages 1454, 1455, 1687, 1914, Act No. 94-225

McWhorter, Valarie Lynn, commended-

H.R. 313, page 2154

Mead containerboard's stevenson mill, commended-

H.J.R. 71, pages 380, 381, 420, 556, 567, 618, Act No. 94-65

Mid-continent oil and gas association, commended-

S.J.R. 109, pages 2349, 2360, 2494, Act No. 94-372

Missett, Judi Sheppard, commended-

S.J.R. 15, pages 393, 394, 461, Act No. 94-45

Missionary servants of the most blessed trinity, commended-

H.J.R. 55, pages 199, 361, 406, 432, Act No. 94-39

Mixon, sheriff Bryant, commended-

S.J.R. 74, pages 1791, 1792, 1894, 2020, Act No. 94-233

Moland, John, jr., commended-

H.J.R. 338, pages 2344, 2345, 2359, 2576, 2601, 2751, Act No. 94-458

Montgomery academy basketball team, commended-

S.J.R. 66, pages 1451, 1452, 1689, 1914, Act No. 94-228

S.J.R. 67, pages 1452, 1689, 1915, Act No. 94-229

S.J.R. 68, pages 1452, 1688, 1915, Act No. 94-230

Montgomery housing authority basketball team, commended-

H.R. 384, page 2589

Montgomery southeast black all stars, commended-

H.J.R. 300, pages 2048, 2060, 2569, 2600, 2752, Act No. 94-448

Montgomery southeast blue eight year old stars, commended-

H.J.R. 298, pages 2046, 2047, 2060, 2569, 2600, 2751, Act No. 94-444

Montgomery southeast blue nine year old all stars, commended-

H.J.R. 299, pages 2047, 2060, 2569, 2600, 2752, Act No. 94-445

Moore, Thomas M., commended-

S.J.R. 16, pages 394, 461, Act No. 94-46

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Moore, Robert James, commended-

H.J.R. 310, pages 2152, 2153, 2164, 2566, 2597, 2751, Act No. 94-420

Moss, Sadie, commended-

H.R. 424, page 3052

H.J.R. 437, pages 3074, 3616, 3633, 3708, Act No. 94-626

Mountain brook high school, commended-

H.J.R. 50, pages 184, 360, 406, 432, Act No. 94-37

Murray, Donald Briggs, commended-

H.R. 383, page 2588

Mysinger, Wanda, commended-

S.J.R. 70, pages 1451, 1689, 1915, Act No. 94-231

NAACP, recognized-

H.R. 179, page 908

Negro baseball League, recognized-

H.J.R. 425

Nelson, Pamela, commended-

H.R. 201, page 1179

H.J.R. 202, pages 1179, 1180, 1207, 1209, 1318, Act No. 94-179

Nesbitt, Robert D., sr., commended-

H.J.R. 84, pages 473, 474, 481, 554, 567, 618, Act No. 94-68

Nix, James P., commended-

H.J.R. 148, pages 798, 799, 836, 1120, 1141, 1183, Act No. 94-164

Nix, Preston, commended-

H.J.R. 268, pages 1889, 1898, 1899, 2088, 2110, 2157, Act No. 94-279

Nixon, Felix N., commended-

H.R. 401, page 2747

North Jackson high school football team, commended-

H.J.R. 164, pages 803, 804, 836, 837, 1129, 1138, 1182, Act No. 94-139

Orange, reverend James, commended-

S.J.R. 121, pages 2539, 2546, 2594, Act No. 94-407

Oxford high school football team, commended-

H.J.R. 171, pages 843, 912, 1130, 1139, 1183, Act No. 94-146

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Parker, Oliver, commended-
H.R. 161, page 803

Parsons, Mac, commended-
S.J.R. 145, pages 3696, 3697, 3702, Act No. 94-645

Payne, William, commended-
S.J.R. 73, pages 1602, 1692, 1915, Act No. 94-210

Pech, Miss Sheryl, commended-
S.J.R. 21, pages 435, 436, 481, 542, Act No. 94-57

Peebles, Sara, commended-
H.R. 260, page 1884

Pickens academy scholars' bowl team, commended-
H.R. 154, page 802

Pietri, Paul H., jr., commended-
H.R. 289, page 1986

Poe, John Curtis, commended-
S.J.R. 60, pages 1455, 1688, 1914, Act No. 94-226

Portera, Margaret W., commended-
S.J.R. 108, pages 2249, 2294, Act No. 94-259

Powell, Lacey E., jr., commended-
H.J.R. 94, pages 508, 509, 531, 554, 568, 618, Act No. 94-78

Presley, Dan, commended-
H.J.R. 245, pages 1713, 2089, 2109, 2157, Act No. 94-271
H.R. 258, page 1884

Price, Mike; Zimmer, Mike, commended-
H.R. 362, page 2536
S.J.R. 7, pages 93, 94, 143, 375, Act No. 94-25

Pryor, James, commended-
H.R. 76, page 472

Purvis, Tom, commended-
H.R. 225, page 1591

Rains, Billy, commended-
H.J.R. 167, pages 830, 831, 837, 838, 1130, 1138, 1182, Act No. 94-142
S.J.R. 46, pages 844, 911, 947, Act No. 94-116

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Reed, Patricia Wallace, commended-
H.R. 392, page 2591

Reese, Bristo William, honored posthumously-
H.J.R. 352, pages 2381, 2382, 2567, 2599, 2751, Act No. 94-432

Reese, Frederick Douglas, commended-
S.J.R. 120, pages 2539, 2546, 2594, Act No. 94-406

Reid, Frank Madison, III, commended-
H.R. 46, page 143

Reliance health care insurance, commended-
H.R. 382, page 2588

Resource management service, incorporated, commended-
S.J.R. 111, pages 2351, 2352, 2361, 2494, Act No. 94-373

Reynolds, Carolyn, commended-
H.J.R. 198, pages 1133, 1134, 1684, 2100, 2112, 2157, Act No. 94-295

Rhoades, Robert David, commended-
H.R. 315, page 2154
H.J.R. 319, pages 2179, 2575, 2600, 2752, Act No. 94-450

Roberson, dr. Bobby, commended-
S.J.R. 29, pages 612, 621, 714, Act No. 94-92

Robert c. hatch high school basketball team, commended-
H.R. 293, page 2039
H.J.R. 294, pages 2044, 2045, 2059, 2569, 2600, 2751, Act No. 94-442
S.J.R. 134, pages 3054, 3062, 3093, Act No. 94-492

Robertson, Paul, commended-
H.J.R. 14, pages 14, 15, 97, 152, 307, 356, Act No. 94-13
H.R. 28, page 81

Robinson, Dorothy S., commended-
H.J.R. 266, pages 1887, 1888, 1898, 2088, 2112, 2157, Act No. 94-257

Ross, Doug, commended-
H.J.R. 118, pages 630, 631, 702, 1120, 1140, 1183, Act No. 94-149

Rotary International group study exchange, recognized-
H.R. 428, page 3059

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Rowe, Charles C., commended-

S.J.R. 48, pages 930, 1078, 1132, Act No. 94-125

Roy, Roderick, commended-

H.R. 296, page 2045

H.J.R. 301, pages 2048, 2049, 2061, 2565, 2597, 2751, Act No. 94-416

Satsuma high school band senior members, commended-

H.J.R. 450, pages 3565, 3566, 3617, 3634, 3708, Act No. 94-632

Satsuma high school varsity cheerleading squad, commended-

H.J.R. 349, pages 2378, 2567, 2598, 2752, Act No. 94-429

Satterfield, mr. and mrs. Joe Bill, commended-

H.J.R. 329, pages 2262, 2263, 2358, 2576, 2601, 2751, Act No. 94-456

H.R. 334, page 2264

Sauls, Shawna, commended-

H.R. 419, page 3050

H.J.R. 438, pages 3074, 3075, 3616, 3633, 3708, Act No. 94-627

Seaborn, James Ellis, commended-

H.R. 226, page 1591

Selma high school basketball team, commended-

H.J.R. 221, pages 1588, 1589, 1691, 2090, 2111, 2157, Act No. 94-284

H.R. 222, page 1589

S.J.R. 72, pages 1602, 1646, Act No. 94-200

Shealy, Steadman S., jr., commended-

H.J.R. 232, pages 1667, 1668, 1692, 2090, 2112, 2157, Act No. 94-289

Shell, E. Wayne, commended-

H.J.R. 53, pages 187, 188, 360, 406, 432, Act No. 94-38

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Shelwood, J. D., commended-

H.J.R. 309, pages 2151, 2152, 2164, 2566, 2597, 2751, Act No. 94-419

Sheppard, Mary Ann, commended-

H.R. 114, page 617

Sherer, Leigh, commended-

H.R. 367, page 2536

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Shula, Don, commended-

H.R. 58, page 351

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Smith, captain Kevin T., commended-

S.J.R. 52, pages 1067, 1132, Act No. 94-127

Smith, Melissa, commended-

H.J.R. 267, pages 1888, 1898, 2088, 2110, 2157, Act No. 94-256

Smokey bear campaign, recognized-

S.J.R. 130, pages 2749, 2750, 2759, 3094, Act No. 94-491

Sparkman high school advanced placement government class; Schmitz,

Sue, commended-

H.R. 117, page 618

Spencer, Tiffany, commended-

H.R. 153, page 801

St. Clair county football team, commended-

H.R. 174, page 906

Stapleton, captain Marty, commended-

S.J.R. 131, pages 2749, 2750, 2759, 3094, Act No. 94-495

Steele, Lucy, commended-

H.J.R. 144, pages 789, 835, 1119, 1141, 1182, Act No. 94-160

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Stewart, Jackson Braswell, commended-

H.J.R. 173, pages 904, 906, 912, 1130, 1139, 1183, Act No. 94-147

Stone, Kitty, commended-

H.J.R. 307, pages 2149, 2150, 2163, 2566, 2597, 2751, Act No. 94-417

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Sumter county high school basketball team, commended-

H.J.R. 250, pages 1764, 1765, 2089, 2110, 2157, Act No. 94-273

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S.J.R. 139, page 3607

Sumter county high school cheerleaders, commended-

S.J.R. 141, page 3607, 3608

Sumter county high school girls' basketball team, commended-

H.J.R. 253, pages 1786, 2089, 2110, 2157, Act No. 94-275

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Talladega Superspeedway, and William H. G. France, recognized-
S.J.R. 147, pages 3697, 3698, 3702, Act No. 94-647

Taney, Thomas E., commended-
H.J.R. 35, pages 132, 133, 144, 347, 373, 417, Act No. 94-29

Tanner, mr. and mrs. James, commended-
H.J.R. 283, pages 1983, 2058, 2059, 2568, 2599, 2751, Act No. 94-439

Thacker, Beth, congratulated-
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Thomas, Annie, commended-
H.J.R. 241, pages 1710, 1711, 1893, 2088, 2109, 2157, Act No. 94-267
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Thomas, Elaine F., commended-
H.R. 274, page 1918
H.J.R. 275, pages 1919, 2057, 2568, 2599, 2751, Act No. 94-434

Thomas, Harold, commended-
H.R. 156, page 802

Thomas, Maribeth, commended-
H.R. 238, page 1671
H.J.R. 269, pages 1889, 1890, 1899, 2088, 2111, 2158, Act No. 94-280

Titte, Todd, commended-
H.J.R. 312, pages 2153, 2154, 2165, 2566, 2598, 2751, Act No. 94-422

Trawick, Wayne, commended-
H.J.R. 70, pages 380, 420, 556, 566, 618, Act No. 94-64

Turnbo, Minnie, commended-
H.J.R. 375, pages 2558, 2802, 2952, 3056, Act No. 94-513
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Turner, Annie Mae, commended-
H.R. 395, page 2592

Tyson, John, jr., commended-
H.J.R. 373, pages 2556, 2557, 2801, 2952, 3056, Act No. 94-511
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University of alabama-huntsville; Alabama a and m university, commended-
H.J.R. 214, pages 1446, 1447, 1686, 2101, 2113, 2158, Act No. 94-302

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University of north Alabama football team, commended-

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Van Leeuwen, Ann C., commended-

H.R. 27, page 81

Varnon, Doug, commended-

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Venable, Ben, commended-

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Walton, Jack L., commended-

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Whittenburg, Bobby Leroy, commended-

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Wilkerson, John Wayne, commended-

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Williams, Robert J., commended-

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Wills, Fred, commended-

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Berchie cross road, named-
S.J.R. 116, pages 2352, 2353, 2362, 2495, Act No. 94-378

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Irish American heritage; Birmingham st. patrick's day party month,
designated-
S.J.R. 83, pages 1795, 1896, 2020, Act No. 94-239

Jimmy Lee Jackson, day, designated-
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Magnolia trail, named-
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Occupational therapy month, designated-

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Rosemary Elebash, call before you dig act of 1994, named-

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Smallwood, R. B, sr., bridge, named-

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Stephanie Marie Frazier, bridge, named-

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Veterans' memorial, bridges, named-

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Officers, enforcement, peace officers' standards and training commission, requirements of, required to meet, jurisdiction, expanded-

H. 368, page 158

Petroleum products, certain, inspection fees, individuals subject to, books, accounts and records of, authorized to examine-

H. 686, pages 918, 1416

Sales and use tax collection, liability of manufacture regarding installation of tax exempt entity, good faith collection regarding reliance on department procedures-

H. 545, page 505

Tires, recycling program, fees, to collect-

H. 501, pages 431, 1416

REVISED ALABAMA EDUCATION IMPROVEMENT ACT

Established-

H. 550, page 533

REYNOLDS, CAROLYN

Commended-

H.J.R. 198, pages 1133, 1134, 1684, 2100, 2112, 2157, Act No. 94-295

RHOADES, ROBERT DAVID

Commended-

H.R. 315, page 2154

H.J.R. 319, pages 2179, 2575, 2600, 2752, Act No. 94-450

RIGHT TO READ ACT

Established-

H. 567, page 538

RIVENBARK, WILLIAM LARRY

Death mourned-

H.J.R. 344, pages 2348, 2360, 2566, 2598, 2752, Act No. 94-425

H.R. 345, page 2349

ROBERSON, BOBBY

Commended-

S.J.R. 29, pages 612, 621, 714, Act No. 94-92

ROBERT C. HATCH HIGH SCHOOL

Basketball team, commended-

H.R. 293, page 2039

H.J.R. 294, pages 2044, 2045, 2059, 2569, 2600, 2751, Act No. 94-442

S.J.R. 134, pages 3054, 3062, 3093, Act No. 94-492

ROBERTS, DAVID D.

Death mourned-

H.J.R. 18, pages 17, 18, 98, 152, 307, 356, Act No. 94-17

ROBERTSON, PAUL

Commended-

H.J.R. 14, pages 14, 15, 97, 152, 307, 356, Act No. 94-13

H.R. 28, page 81

ROBINSON, DOROTHY S.

Commended-

H.J.R. 266, pages 1887, 1888, 1898, 2088, 2112, 2157, Act No. 94-257

ROSS, DOUG

Commended-

H.J.R. 118, pages 630, 631, 702, 1120, 1140, 1183, Act No. 94-149

ROTARY INTERNATIONAL

Group study exchange in Eufaula, recognized-

H.R. 428, page 3059

ROWE, CHARLES C.**Commended-****S.J.R. 48, pages 930, 1078, 1132, Act No. 94-125****ROY, RODERICK****Commended-****H.R. 296, page 2045****H.J.R. 301, pages 2048, 2049, 2061, 2565, 2597, 2751, Act No. 94-416****RULES****House rule 13, amended-****H.R. 105, page 591****RUSSELL COUNTY****Fire districts, established-****H. 96, pages 44, 109, 192, 193, 589, 596, 618, Act No. 94-81****RUSSELL COUNTY WATER AUTHORITY****Utility sales tax, exemption, provided-****H. 843, pages 1706, 1909****S. 262, pages 690, 1413, 2797, 2798, 2838, Act No. 94-594****SACRED-AIRES QUARTET****Commended-****H.R. 131, page 697****SALES****Transient vendors, licensing of, further provided-****H. 455, page 387****H. 831, pages 1629, 1909****SATSUMA HIGH SCHOOL****Band, senior members, commended-****H.J.R. 450, pages 3565, 3566, 3617, 3634, 3708, Act No. 94-632****Varsity cheerleading squad, commended-****H.J.R. 349, pages 2378, 2567, 2598, 2752, Act No. 94-429****SATTERFIELD, MR. AND MRS. JOE BILL****Commended-****H.J.R. 329, pages 2262, 2263, 2358, 2576, 2601, 2751, Act No. 94-456****H.R. 334, page 2264**

SAULS, SHAWNA**Commended-****H.R. 419, page 3050****H.J.R. 438, pages 3074, 3075, 3616, 3633, 3708, Act No. 94-627****SAVINGS AND LOAN ASSOCIATION**

Savings bank law, merging savings and loans and banking activities, certain, locally and regionally, investment and loan regulations, licensure, penalties, provided-
H. 715, page 1098

SCHMITZ, SUE**Commended-****H.R. 117, page 618****SCHOLARSHIPS**

Medical, amount, maximum, increased, procedure, altered-
H. 228, pages 72, 362, 649, 695
S. 67, pages 556, 560, 695, 696, 713, Act No. 94-103

Student athletes, benefits, extra, providing, prohibited-
H. 651, pages 795, 1417, 1726, 1996, 2044

SCHOOLS

Campus, firearms on, to be confiscated and destroyed-
H. 696, page 920

Child nutrition law, boards of education, local, breakfast and lunch programs, required to establish-
H. 821, pages 1626, 1902

Documents, historical and public, posting of, certain, permitted, censorship, prohibited, notification, provided-
H. 295, page 117

Education budget, provided-

H. 193, pages 66, 1079, 1199, 1209, 1279, 1280, 1281, 1282, 1283, 1285, 1287, 1288, 1289, 1290, 1292, 1293, 1294, 1296, 1297, 1298, 1299, 1300, 1301, 1310, 1311, 1312, 1320, 1321, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1804, 1805, 1874, 1929, 2414, 2491, 2492, 2511, 2512, 2544, 2604, 2661, 2663, 2765, 2800, 3055, Act No. 94-470

Grade, pledge of allegiance, recitation of, required-
H. 363, page 157

SCHOOLS (Continued)

High school of mathematics and science, bonds, authorized to issue-
H. 864, pages 1922, 2550

Phonics, to be taught more in, right to read act, established-
H. 567, page 538

Property, activities and transportation, firearms and weapons, banned from,
penalties-
H. 786, pages 1461, 1700, 2000
S. 202, pages 690, 1696, 3082

Property, crime committed on, arrests without warrants, authorized-
H. 480, page 426

Public, legislature, authorized to establish a system of, supreme court to
have exclusive jurisdiction in interpreting the constitutional amendment,
ca-
H. 918, pages 2178, 2504, 2505

Public, qualified high technology equipment, donation to, tax credit
provided-
H. 514, pages 498, 564, 649, 732, 739, 740

School distribution plan, participate in development of, joint committee
established to study-
H.J.R. 397, pages 2717, 2769, 2948, 3056, Act No. 94-485

Students, uniform dress program, local school boards authorized to
implement-
H. 585, page 572
S. 49, pages 1778, 1779, 1906

Supplies, competitive bidding not required for those cheaper on sale or
going out of business sale, provided-
H. 849, pages 1707, 1906

SCOTTISH RITE BODIES

Taxes, sales and use, county, municipal and state, exemption, provided-
H. 373, page 159

SEABORN, JAMES ELLIS

Commended-
H.R. 226, page 1591

SEAT BELTS

Safety belt use act of 1994, established, mandatory use, fines, penalties,
further provided-
H. 358, pages 156, 369

SECRETARY OF STATE

Athletic agents regulatory commission, added to board, registration, to supervise-

S. 283, pages 693, 694, 1909

Officials, state, elected, recall of, provided, ca-

H. 399, pages 165, 460, 711, 1724, 1751, 1752

Voter registration, implementation of "motor-voter" federal act-

H. 242, page 75

S. 101, pages 688, 1091, 3082

SECURITIES COMMISSION

Director, qualifications, commission, to set-

H. 827, page 1628

SELF-HELP BUSINESS IMPROVEMENT DISTRICTS

Municipalities, authorized to establish, assessments, imposed-

H. 631, pages 790, 913, 1727, 1997

S. 465, pages 1449, 1450, 1699

SELMA HIGH SCHOOL

Basketball team, commended-

H.J.R. 221, pages 1588, 1589, 1691, 2090, 2111, 2157, Act No. 94-284

H.R. 222, page 1589

S.J.R. 72, pages 1602, 1646, Act No. 94-200

SELMA UNIVERSITY

Board of trustees, membership increased-

S. 40, pages 692, 1906

SENATE

Notified, house is in session-

H.R. 1, pages 4, 5

SENIOR CITIZENS HALL OF FAME

Membership and quorum, further provided-

H. 496, pages 430, 1090, 1728, 1998, 2529, 2530

SENTENCING

Additional, total, limited to 20 years where no injury or drug trafficking in conviction or previous conviction for those crimes, prisoners, others, certain, release, provided-
H. 518, page 499

Alternative, defendant who receives, not eligible for any subsequent sentences-
H. 33, page 29

Crimes of violence, persons convicted of, percentage, certain, required to serve, victim may testify at hearing, certain, reduction by governor, provided-
H. 601, page 628
H. 937, page 2763

SENTENCING INSTITUTE

Appropriation, provided-
H. 316, pages 122, 149, 1203, 1633, 1634, 2336, 2354, 2540, Act No. 94-472

SEWER AUTHORITIES

Members, compensation, provided-
H. 274, pages 113, 1700

SEX OFFENDERS

Persons, certain, convicted of, sentencing, altered-
H. 307, pages 120, 485

Registration of, uniform system by criminal justice information center, pardons and paroles board to notify sheriff and district attorney of paroles-
H. 408,, page 167

SHEALY, STEADMAN S., JR.

Commended-
H.J.R. 232, pages 1667, 1668, 1692, 2090, 2112, 2157, Act No. 94-289

SHELBY COUNTY

Judges, circuit and district, judicial assistants to, compensation, further provided-
H. 907, pages 2174, 2175, 2372, 2577, 2578, 2579, 2585, 3092, 3101, 3610, Act No. 94-565
S. 665, pages 2585, 2586, 2761, 3080, 3093, Act No. 94-562

SHELBY COUNTY (Continued)

Law enforcement personnel board, members and compensation, further provided-

H. 870, pages 1924, 2066, 2233, 2584, 2603, 2752, Act No. 94-468

Operations manager, civil service system, removed from, manager, sheriff to appoint-

H. 881, pages 1927, 2066, 2237, 2238, 2805, 2949, 3056, Act No. 94-547

Realtors, license tax on, municipalities, authorized to levy, ca-

H. 789, pages 1462, 1702, 1969, 2367, 2499, 2541, Act No. 94-341

H. 906, pages 2174, 2372, 2574, 2575, 3618, 3630, 3708, Act No. 94-666

Revenues from sales tax for outstanding indebtedness, certain, county commission may pledge, ca-

H. 740, pages 1193, 1701, 1960, 1961, 2369, 2500, 2541, Act No. 94-343

SHELL, E. WAYNE

Commended-

H.J.R. 53, pages 187, 188, 360, 406, 432, Act No. 94-38

H.R. 59, page 351

SHELWOOD, J. D.

Commended-

H.J.R. 309, pages 2151, 2152, 2164, 2566, 2597, 2751, Act No. 94-419

SHEPPARD, MARY ANN

Commended-

H.R. 114, page 617

SHERER, LEIGH

Commended-

H.R. 367, page 2536

SHERIFFS

Compensation, further provided-

H. 610, page 629

H. 813, pages 1470, 1696

S. 478, pages 3023, 3064

Deputy, full-time law enforcement officers of county, compensation, set-

H. 634, page 791

SHERIFFS (Continued)

Deputy, to have same civil immunity as police officers-
H. 690, page 919

Felons and sex offenders, registration of, uniform system by criminal justice
information center, pardons and paroles board to notify of paroles-
H. 408, page 167

Prisoners in county jails, appropriation for, increased-
H. 683, pages 918, 2168

Receipt of federal and fugitive prisoners, costs reimbursed, contracts for
care of, jail maintenance, pistol permits, provided-
H. 710, pages 1096, 2169
S. 604, pages 2387, 2388, 2551

Supernumerary positions, establishment, prohibited, employees' retirement
system, participation in, ca-
H. 58, pages 35, 100, 199, 316, 407, 455, 456, 3625, 3628, 3707, Act
No. 94-607

SHERIFFS ASSOCIATION

Employees, full-time and executive officers may elect to join teachers'
retirement system, and state employees' health insurance plan,
previous service, purchase of, provided-
H. 5, page 23

SHRIMPING

Industry, regulations regarding poundage, location of catches, licensing-
S. 329, pages 1773, 1907, 2809, 3081, 3581, 3585, 3586, 3615, 3624,
Act No. 94-618

SHRINERS

License plates, distinctive, authorized-
H. 2, pages 22, 80, 422, 587, 588, 591, 592, 3663, 3683, 3709, Act No.
94-695

SHULA, DON

Commended-
H.J.R. 88, pages 477, 482, 555, 567, 618, Act No. 94-72
H.R. 58, page 351

SIBYL TEMPLE FOUNDATION, INC.

Sales tax exemption, provided-
H. 275, pages 113, 838

SICK LEAVE

Educational employees, transfer of, provided for-

H. 543, page 504

S. 637, pages 3032, 3064

Teachers', support personnel appropriation, supplemental, provided-

H. 321, page 123

S. 100, page 1308

SICKLE CELL EDUCATION PROGRAM

Appropriation, provided-

H. 255, pages 78, 1085, 1202, 1609, 1610, 1612, 1613, 2336, 2354,
2540, Act No. 94-364

SILVER HAired LEGISLATURE

Appropriation, provided-

H. 699, page 921

SIMPSON-MAY CEREBRAL PALSY CENTER

Appropriation, provided-

H. 225, pages 71, 1084, 1202, 1581, 1582, 1583, 2330, 2353, 2540,
Act No. 94-359

SMALL BUSINESS

Business enterprise and research program, established, appropriation to,
economic and community affairs department, to administer-

H. 590, pages 625, 785

Enterprise zone act, applicable to businesses employing three or more,
notwithstanding rules of economic and community affairs department-

H. 431, pages 381, 1415, 1725, 1765, 1766

Small business development commission, established, appropriation,
provided-

H. 489, pages 428, 563, 648, 678, 2000

SMALL BUSINESS DEVELOPMENT COMMISSION

Established-

H. 489, pages 428, 563, 648, 678, 2000

SMALLWOOD, R. B.

Bridge, named-

H.J.R. 220, pages 1585, 1588, 1690, 2090, 2111, 2158, Act No. 94-283

SMITH, KEVIN T.

Commended-

S.J.R. 52, pages 1067, 1132, Act No. 94-127

SMITH, MELISSA

Commended-

H.J.R. 267, pages 1888, 1898, 2088, 2110, 2157, Act No. 94-256

SMOKEY BEAR CAMPAIGN

50th anniversary, recognized-

S.J.R. 130, pages 2749, 2750, 2759, 3094, Act No. 94-491

SMOKING

Public places, certain, prohibited, exceptions, provided-

H. 1, pages 22, 489

H. 448, pages 385, 564

Youth access to tobacco act, established-

H. 137, pages 54, 105, 154, 366

SOCIAL WORKERS

Bachelor, licensing of, education qualifications, altered-

H. 258, pages 78, 105, 550, 3661, 3662, 3682, 3709, Act No. 94-639

SOIL AND WATER CONSERVATION COMMITTEE

Executive secretary, compensation, further provided-

H. 723, pages 1189, 1901

SOLID WASTECollection, counties and municipalities, required to provide services by
January 1, 1995-

H. 707, pages 1096, 1907

Tires, recycling program, fees, revenue department to collect, health department to administer-

H. 501, pages 431, 1416

SPACE SCIENCE EXHIBIT COMMISSION

Appropriation, provided-

H. 201, pages 67, 1081, 1200, 1537, 3621, 3628, 3708, Act No. 94-674

SPARKMAN HIGH SCHOOL

Advanced placement government class, commended-
H.R. 117, page 618

SPARKS STATE TECHNICAL COLLEGE

Appropriation, supplemental, provided-
H. 226, pages 72, 1084, 1202, 1583, 1584, 1585, 1597, 1598, 1599,
1600, 2762, 2945, 3055, Act No. 94-532

SPECIAL EDUCATIONAL TRUST FUND

Abolished, public school fund, higher education fund, established, taxes,
certain, distribution, provided-
H. 808, pages 1466, 2166

Budget, provided-
H. 193, pages 66, 1079, 1199, 1209, 1279, 1280, 1281, 1282, 1283,
1285, 1287, 1288, 1289, 1290, 1292, 1293, 1294, 1296, 1297, 1298,
1299, 1300, 1301, 1310, 1311, 1312, 1320, 1321, 1386, 1387, 1388,
1389, 1390, 1391, 1392, 1393, 1395, 1396, 1397, 1398, 1399, 1400,
1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1804,
1805, 1874, 1929, 2414, 2491, 2492, 2511, 2512, 2544, 2604, 2661,
2663, 2765, 2800, 3055, Act No. 94-470

Proration reduction trust fund, established, ca-
S. 451, pages 1774, 2760

SPECIAL ORDER CALENDAR

Provided-
H.R. 128, pages 647, 651
H.R. 138, pages 731, 734
H.R. 204, pages 1199, 1204
H.R. 249, pages 1717, 1723, 1729, 1751, 1752, 1763
H.R. 292, pages 1994, 2000, 2019
H.R. 409, pages 2808, 2812, 2815, 2816, 2817, 2821, 2822, 2823,
2824, 2828, 2829

SPECIAL SCHOOLS

Appropriation, provided-
H. 200, pages 67, 1080, 1201, 1567, 1570, 1579, 2969, 2972, 3045,
3595, 3598, 3599, 3637, 3645, 3708, Act No. 94-682

SPEECH THERAPISTS

Services, insurance reimbursement, provided-
H. 846, page 1706

SPEED LIMITS

Roads, unpaved, maximum, reduced-

H. 98, pages 44, 107, 1129

S. 37, pages 576, 711, 2809, 3081, 3600, 3601, 3603, 3604, 3605,
3615, 3624, Act No. 94-617

SPENCER, TIFFANY

Commended-

H.R. 153, page 801

SPORTS

Football playoffs conducted by primary and secondary public schools, tax
exemption, continued collection and retention of funds by collecting
school, provided-

H. 291, pages 116, 363, 649, 732, 740, 741, 2702, 2774, 3055, Act No.
94-529

SPORTS FESTIVAL

Appropriation, provided-

H. 221, pages 71, 1083, 1201, 1576, 1577

SPORTS HALL OF FAME

Officers and employees eligible for membership in teachers' retirement
system, purchase of past service credit, authorized-

H. 122, page 50

ST. CLAIR COUNTY

Board of registrars, meeting days, altered-

H. 29, pages 28, 483, 849, 850, 1677, 1679, 1890, Act No. 94-248

Sheriff, personnel, compensation, provided-

H. 934, pages 2762, 2763

ST. CLAIR COUNTY HIGH SCHOOL

Commended-

H.R. 174, page 906

STALKING

Conviction, second, penalties, additional, provided-

H. 15, page 25

H. 604, pages 628, 1903

STAPLETON, MARTY**Commended-**

S.J.R. 131, pages 2749, 2750, 2759, 3094, Act No. 94-495

STATE AGENCIES

Athletic agents regulatory commission, secretary of state added to board, secretary of state to supervise registration-
S. 283, pages 693, 694, 1909

Child care commission, established-

H. 386, pages 162, 490, 1727, 1997

Chiropractors examiners board, members, election of, board reorganization, quorum, further provided-

H. 142, pages 55, 560

S. 81, pages 1775, 1904, 2329, 2810, 3082

Cosmetology board, membership, increased-

H. 899, page 2071

Criminal justice information center, criminal history background information on employees, prospective, mental health and mental retardation department, authorized to access-

H. 144, pages 55, 487, 1724, 1752, 1753, 1755, 1787, 2766, 2947, 3056, Act No. 94-583

S. 208, pages 1770, 1771, 1904

Criminal justice information center, may levy and collect user fees, maximum, set, retroactive effect-

H. 495, page 430

Educational television commission, broadcasting and production equipment, surplus, disposal of, authorized-

H. 76, page 39

Entitles, governmental, including state and its agencies, investments, regulated-

H. 257, pages 78, 106, 821, 822, 823, 827

Examiners of public accounts, chief examiner, power expanded-

H. 245, pages 76, 363

Examiners of public accounts, sworn reports subject to deliberative process privilege-

H. 246, pages 76, 363

Finance department, air transportation division, equipment, certain, transferred to transportation department-

H. 748, pages 1195, 1908, 2411, 2412, 3640, 3648, 3708, Act No. 94-689

STATE AGENCIES (Continued)

Historical commission, executive director, appointment of, further provided-
H. 510, page 497

Human resources department, name changed to office of temporary assistance-
H. 335, pages 127, 460

International airport authority, board of directors, increased-
H. 834, page 1630

Liquefied petroleum gas board, provisions, revised-
H. 293, pages 116, 370, 891, 892, 897, 898, 1647, 1676, 1890, Act No. 94-211

Plumbers and gas fitters examining board, deputy director, appointment of, provided-
H. 111, pages 47, 365, 648, 682
S. 5, pages 576, 711

Public service commission, compensation, expense allowance, converted to salary, future recommendation by personnel board subject to governor's approval-
H. 462, pages 389, 2165
S. 367, pages 2391, 2392, 2548, 2810, 3080, 3090, 3104, 3105, 3106, 3107, 3562, Act No. 94-610

Rehabilitation services department, established, transfers functions subject to supervision by state board of education-
H. 627, pages 722, 1416, 2412, 2413, 2414, 2509, 2510
H. 628, page 722

Securities commission, director, qualifications, commission to set-
H. 827, page 1628

Soil and water conservation committee, executive secretary, compensation, further provided-
H. 723, pages 1189, 1901

State docks, employees, safety program for, authorized to establish-
H. 301, pages 118, 366, 1726, 1996, 2036

STATE AIRCRAFT

Usage, records kept of, persons accompanying an authorized person required to pay cost of travel, information about all charter and commercial flights taken, governor required to furnish-
H. 47, page 32

STATE AUDITOR

Mandate auditor, position, established-
H. 861, page 1922

STATE CAPITOL

Flags, certain, display of, required, ca-
H. 3, page 22

STATE COUNCIL ON THE ARTS

Employees' retirement system, reopen for prior service with-
H. 474, pages 425, 1899, 2734, 2735, 3676, 3704, 3709, Act No.
94-722

STATE DOCKS

Employees, safety program for, authorized to establish-
H. 301, pages 118, 366, 1726, 1996, 2036

Northport dock authority, land, certain, located in Tuscaloosa county,
transferred to-
H. 82, pages 41, 366, 856, 857, 859, 860

Northport dock authority, property in Tuscaloosa county, transferred to, ca-
H. 81, page 41

STATE EMPLOYEE COMBINED CHARITABLE CAMPAIGN

Undesignated funds, distribution formula of, further provided-
H. 681, pages 917, 1090, 1999

STATE EMPLOYEES

Assault of, by prison inmate, second degree assault, provided-
H. 400, pages 165, 486

Attorney general, investigators, additional, employment of, authorized-
H. 775, pages 1429, 1901

Cost-of-living salary increase, appropriation, provided-
H. 43, page 31
H. 235, pages 73, 1902
S. 187, pages 730, 2550, 2808, 2834, 2836, 2837, 2839, 3033, 3040,
Act No. 94-488

Educational television commission, members, per diem, same as other state
employees, daily meeting allowance, increased-
H. 77, pages 39, 362, 1728, 1998

STATE EMPLOYEES (Continued)

Fighting forest fire or other emergencies, payment directly to contract facilities-

H. 267, pages 111, 365, 651, 734, 770, 771, 3700, 3706, 3709, Act No. 94-643

Law enforcement officers, prohibited from engaging in political activities during work hours-

S. 33, pages 1782, 1783, 2551

Longevity bonus paid each year and cost-of-living bonus, employees working any portion of the quarter of the 1993-94 fiscal year may receive pro rata share of-

H. 143, page 55

Merit system, dismissal procedures, further provided-

H. 113, pages 48, 487

Merit system, provisional appointments, further provided-

H. 309, page 120

Military, leave of absence with pay, converted from 21 days to 168 hours-

H. 372, pages 159, 493, 650, 733, 756

Pay raise, will of, expressed-

H.R. 188, pages 952, 953, 954, 955

Protection act, established-

H. 452, pages 386, 706, 1725, 1787, 1789, 1790

S. 313, pages 580, 581, 709, 1789, 1916, Act No. 94-244

Retired, cost-of-living increase granted-

H. 227, pages 72, 1084, 1203, 1640, 1641, 2690, 2691, 2774, 3055, Act No. 94-591

S. 72, page 1306

Sick leave days transferred with employee to new place of employment, maximum amount, altered-

H. 543, page 504

State ethics law, substantially altered-

H. 824, page 1627

STATE EMPLOYEES PROTECTION ACT

Established-

H. 452, pages 386, 706, 1725, 1787, 1789, 1790

S. 313, pages 580, 581, 709, 1789, 1916, Act No. 94-244

STATE FUNDS

Entities, governmental, including state and its agencies, investments, regulated-

H. 257, pages 78, 106, 821, 822, 823, 827

Examiners of public accounts, repository for reports of entities receiving state funds, established-

H.J.R. 236, pages 1670, 2161, 2565, 2597, 2751, Act No. 94-414

Federal government, interest due as computed in accordance with cash management improvement act of 1990, appropriation for, finance director, to administer-

H. 706, pages 1095, 1417

General public education purposes, funds appropriated by act 93-789, repealed and reappropriated-

H. 153, pages 58, 146

State fiscal year, changed-

H. 284, page 115

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

Appropriation, supplemental, provided-

H. 547, pages 505, 785, 1062, 2300, 2304, 2356, Act No. 94-319

STATE INSURANCE FUND

Assets, protected, ca-

H. 308, pages 120, 369

Veterans nursing homes in Bay Minette and Huntsville, appropriation from, provided-

H. 700, pages 921, 1092

STATE OF ALABAMA

Seal, unlawful to reproduce or use facsimile or print or distribute certain identification cards without disclaimers, penalties-

H. 675, pages 916, 1090, 2810, 3046, 3701, 3707, 3709, Act No. 94-716

STATUS ON THE AFRICAN-AMERICAN MALE TASK

Established-

H. 880, pages 1926, 2171

STATUTE OF LIMITATIONS

Prisoners sentenced for less than life terms, civil disabilities and operation of, removed for civil actions, certain, and other property rights-

H. 263, pages 110, 365

S. 77, pages 692, 693, 1089

STEELE, LUCY**Commended-**

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Members, active, two month period in which may receive two years of
additional service credit if retired, savings distributed equally to school
board and retirement system-

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THOMAS, MARIBETH**Commended-**

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Aid to dependent children recipients, provide for support of children living with them-
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WILLIAMS, ROBERT J.

Commended-

H.J.R. 11, pages 11, 12, 97, 151, 306, 356, Act No. 94-10

VILLIAMSON, JOHNNY ANDREW

Death mourned-
H.R. 25, page 80

VILLS, FRED

Commended-
H.R. 291, page 1986

VILMER

Dissolution, referendum-
H. 506, pages 496, 565, 645, 1160, 1161, 1749, 1879, 1891, Act No.
94-217

VILSON, E. HAM

Death mourned-
H.R. 251, page 1767
H.J.R. 252, pages 1767, 1768, 2089, 2110, 2157, Act No. 94-274
S.J.R. 92, pages 2049, 2050, 2061, 2140, Act No. 94-266

VINSLETT, HOYT

Commended-
H.R. 100, page 544

VINSTON COUNTY

County commission re-established, election of chair and associate
commissioners-
S. 580, pages 1636, 1637, 1702, 1972, 2019, Act No. 94-206

Probate judge and other county officials, compensation, court charges, fees,
further provided, ca-
H. 729, pages 1190, 1423, 1503, 1504, 2296, 2297, 2355, Act No.
94-260

VIREGRASS MUSEUM OF ART

Appropriation, provided-
H. 166, pages 61, 148

WISE, HAROLD BYRD

Commended-
H.R. 431, page 3068
H.J.R. 432, pages 3069, 3070, 3616, 3633, 3708, Act No. 94-624

WISEMAN, HOLLIS

Commended-

H.J.R. 65, pages 375, 376, 419, 555, 566, 618, Act No. 94-60

WISEMAN, TEKO

Commended-

H.R. 227, page 1592

WOMEN

State and public boards, commissions and authorities, urged to appoint-

H.J.R. 218, pages 1458, 1459, 1690, 1751, 2089, 2111, 2158, Act No. 94-307

S.J.R. 95, pages 2050, 2051, 2162, 2565, 2583, Act No. 94-404

WOMEN'S HALL OF FAME

Board, quorum, appropriation, annual, limit on, deleted-

H. 617, pages 720, 1090, 2527, 2528, 3660, 3667, 3709, Act No. 94-687

S. 409, pages 3020, 3021

WOOD, ESCAR BLAKE

Death mourned-

S.J.R. 88, pages 1796, 1896, 2021, Act No. 94-242

WOODSMALL, WILLIAM VINCENT

Commended-

H.J.R. 207, pages 1313, 1685, 2101, 2113, 2157, Act No. 94-297

WORKERS' COMPENSATION

Coverage, death and disability, municipalities that elects, law enforcement officers, certain, extended to-

H. 575, pages 570, 708

Filing of false statements, class b felony, provided-

H. 466, page 389

Filing of false statements, class c felony, established-

H. 13, page 24

H. 494, pages 430, 710

H. 780, pages 1460, 1699, 2338, 2341, 2342, 2343, 3650, 3651, 3652, 3665, 3709, Act No. 94-653

WORKERS' MEMORIAL DAY

Designated-

S.J.R. 55, pages 1455, 1456, 1687, 1914, Act No. 94-222

WORTHLESS CHECKS

Service charge, increased-

H. 697, pages 921, 2170

WRECKERS

Motor vehicles, weight limits waived in towing disabled vehicle to repair shop-

H. 511, pages 497, 840, 1103, 1104, 1110, 1113

WRIGHT, WALTON R.

Commended-

H.J.R. 357, pages 2533, 2534, 2545, 2801, 2952, 3056, Act No. 94-509

H.R. 371, page 2537

YOUTH AND GOVERNMENT

Appropriation, provided-

H. 222, pages 71, 1083, 1201, 1578, 1579, 2326, 2340, 2356, Act No. 94-339

YOUTH GANG VIOLENCE COMMISSION

Time extended and membership, increased-

H.J.R. 109, pages 618, 622, 701, 752, 779, Act No. 94-99

YOUTH SERVICES DEPARTMENT

Appropriation, provided-

H. 202, pages 67, 1081, 1200, 1538, 1540, 1541, 1542, 2687, 2773, 3055, Act No. 94-526

H. 210, pages 69, 1082, 1200, 1554, 1556, 1575, 2689, 2773, 3055, Act No. 94-516

Children's harbor, appropriation, repealed and reappropriated-

H. 159, pages 59, 147

Juvenile probation officers, allocation of, salary subsidies, revised, minimum standards, provided-

H. 381, pages 161, 1902, 2811

Police officers, certain, authorized to appoint or employ-

H. 542, pages 504, 1089, 1440

YOUTH SYMPHONY EDUCATION PROGRAM

Etowah county for youth symphony education program, appropriation, repealed and reappropriated-

H. 157, pages 59, 147

YOUTHFUL OFFENDERS

Ranges of punishment, established-

H. 599, page 627

ZERINGUE, GERRY

Commended-

H.J.R. 101, pages 545, 546, 559, 638, 658, 698, Act No. 94-87

ZIMMER, MIKE

Commended-

S.J.R. 7, pages 93, 94, 143, 375, Act No. 94-25

ZIMMERMAN, JOHN, IV

Commended-

H.J.R. 390, pages 2590, 2591, 2758, 3088, 3100, 3610, Act No. 94-503

H.R. 391, page 2591

ZOGHBY, MICHAEL E.

Commended-

H.J.R. 356, pages 2532, 2533, 2545, 2801, 2951, 3056, Act No. 94-508

H.R. 372, page 2537

ZONING

Municipalities, may give notice of ordinances and amounts for, in alternate form-

H. 384, pages 162, 492, 1726, 1996, 2032, 2033, 2035